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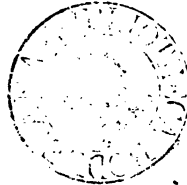
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THE LAW
OF
NATURE AND NATIONS

AS AFFECTED BY
DIVINE LAW.

BY
LEONE LEVI,
LECTURER ON COMMERCIAL LAW AT KING'S COLLEGE, LONDON;
FELLOW OF THE SOCIETY OF ANTIQUARIES AND OF THE STATISTICAL SOCIETY;
HON. MEMBER OF THE LIVERPOOL AND LEEDS CHAMBERS OF COMMERCE;
AUTHOR OF "COMMERCIAL LAW OF THE WORLD,"
&c. &c. &c.



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MDCCCLV.

[THE AUTHOR RESERVES THE RIGHT OF TRANSLATING THIS WORK.]

Indi ripose : Coscienza fusa,
O della propria o dell' altrui vergogna,
Pur sentirà la tua parola brusca.

Ma nondimen, rimossa ogni menzogna,
Tutta tua vision fa manifesta
E lascia pur grattar dov' è la rogna ;

Chè, se la voce tua sarà molesta
Nel primo gusto, vital nutrimento
Lascerà poi quando sarà digesta.

Questo tuo grido farà come il vento
Che le più alte cime più percuote ;
E ciò non fia d'onor poco argomento.

—*Dante, " Il Paradiso."*

TO THE

REV. WILLIAM WHEWELL, D.D., F.R.S.,

Master of Trinity College,

AND

PROFESSOR OF MORAL PHILOSOPHY, IN THE UNIVERSITY OF CAMBRIDGE,

ETC., ETC., ETC.,

AS A TOKEN OF ADMIRATION FOR HIS PROFOUND LEARNING,

THIS VOLUME

IS, BY PERMISSION, DEDICATED.

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PREFACE.

NATIONS, like individuals, often fall into a state of lethargy, from a feeling of self-complacency at the progress they have made. Were we questioned as to the relative position of the present with the past, with respect to the state of society, of politics, and of morals, we should unhesitatingly pronounce the Nineteenth Century as bearing the palm over any former age. Nevertheless, we are not sanguine that a close scrutiny will corroborate the assertion.

No doubt a much larger proportion of the world is at present civilized and fruitful. Evidences are not wanting, that Civilization, Religion, Commerce, and Science have expanded their benign and humanizing influence. We have ripened our tastes and refined our manners, and our notions of right and wrong are enlarged as we subject them to the standard of the supreme and universal Law of God. Nevertheless, let us remember, that, if Europe has made rapid progress, and America has on a sudden come forth as a full-grown child,—Asia and Africa have remained stationary, if not decidedly retrograded ; whilst recent discoveries have

shown, that, if we pride ourselves in the Arts, the Ancients were in some respects by far our superiors.

On examination of the causes of crime, we find *hatred* to be the most prolific. What has been done to avert or neutralize its influence? Has Philosophy, has Religion, or has Education been directed to the dissemination of the principles and illustrations of Love? We have trusted to the Sacred Scriptures to effect such an influence. But the Bible has been more prominently used as a body of theology than as a popular educator, and a reformer of morals and of sentiment. A deficiency has thence arisen. *The literature of the affections has yet to appear.*

International relations are as yet in a crude and uncertain state. By the wonderful discoveries of Science, the natural barriers between countries are almost swept away, yet not a few artificial obstacles are still in existence. The commercial and political bonds among nations have hitherto been established upon erroneous bases, and both the Treaties of Commerce and of Peace, and the Internal Laws of States affecting foreign Commerce, require to be sifted and put in harmony with Natural Laws.

The system of maintaining large Armies and Navies is destroying the vitals of nations. The national finances are shattered, and under the pressure of their derangements, all economical improvements are frustrated.

Suggestions like these naturally flow from the inquiry now instituted, and although it would be presumptuous to attempt to solve the problems thereby raised, the proposal of them may not be in vain. It is impossible to ignore the necessities arising from the inexorable evils of the present system. Nevertheless, it is all-important that what is an evil should be recognized, and dealt with as such. No public grievances will ever be remedied unless they are exhibited in their true light. The reforms herein advocated may seem incongruous with the exigencies of actual war, but war is but an incident in the life of civilized society. The career of progress is not thereby arrested. Whilst the shores of the Bosphorus echo with the roaring of the cannon, the Western Metropolis, Paris, opens its Universal Exhibitions, and affords to physical and social sciences a fresh and more systematic impulse.

The principal object of this work is to institute an examination into the question of the inviolability of human life. It was suggested by the present unhappy contest between Russia and Turkey, with her allies, France and the United Kingdom, which, after so long a period of peace, has thrown us into a paroxysm of war as fierce and cruel as at any former period. The inquiry is totally unconnected with party principles, and is founded on the Eternal dictates of right and wrong, which ought to regulate the transactions of States, as of individuals.

Whilst present circumstances have, doubtless, directed my attention to this important question, the elaborate discussion of the subject, in the first two Chapters of Grotius' *De Jure Belli et Pacis*, has afforded me the basis of the argument. The conviction that some of the positions laid down by that eminent jurist might admit of further consideration, has furnished me with a reason for undertaking the task.

Writers on International Law have repeatedly asserted the principle, that a nation stands in the character of a moral person, and that nothing is permitted to a nation which is prohibited to an individual. Yet how such an analogy exists between the acts of a nation collectively and those of an individual, has never, to my knowledge, been logically expounded. It is thus that the work opens with an examination of the state of society—the duties of its members—the causes of crime—the action of self-defence—the institution of government—its rights—and the extent of punishment it may inflict; and proceeding subsequently by the same process to the state of nations, it indicates the causes of war, and examines the political axioms connected with the same.

The questions of the illegality of Capital Punishment and War, are indissolubly connected. If Divine Law sanctions our killing a person who commits or attempts to commit murder at home, it will necessarily follow, that we may kill a foreigner, or many such, who make or attempt to make an aggression upon

our country. If, on the contrary, Divine Law forbids it, then both Capital Punishment and War are prohibited. In the investigation of these questions, Divine Law has been freely resorted to, as the last tribunal of appeal. As we award to it an unlimited authority in matters purely theological, much more we need to recur to it where life and death are concerned. It is to be regretted that Jurisprudence has drawn little of late from so high a source—possessing as it does a superhuman authority.

Throughout this work the religious element has been interwoven with the political, scientific and commercial. To ignore it, would be dealing with the surface of the subject. Religious thought has been the great spring of all the principal events in the world's history, and its influence is still paramount.

Far from wishing to propound novel doctrines, I have only sought to discover such as are plain and true ; and if in some cases, they appear to differ from preconceived notions, I trust it may have the effect of eliciting a spirit of inquiry on the subject.

As to authorities, in quoting Grotius, I used the French translation, by Barbeyrac, as well as the English edition, by Dr. Whewell. Mosheim's *Ecclesiastical History*, Gibbon's *Decline and Fall of the Roman Empire*, and Guizot's *History of Civilization in Europe*, have often been referred to. A variety

of publications exists on the questions of Capital Punishment and War, comprising Essays, Historical and Philosophical, too numerous to enable me to make distinct mention.

Writing, as a layman, any theological disquisition on my part would be inadmissible. All I can hope to accomplish is, to bring together a variety of considerations, which, if correct in themselves, cannot fail to awaken a lively interest, and, possibly, at this critical juncture, perform much substantial good.

LEONE LEVI.

12, *The College,*
Doctors' Commons,
August, 1855.

THE
LAW OF NATURE AND NATIONS,
AS AFFECTED BY
DIVINE LAW.

CHAPTER I.

INTERNATIONAL LAW.

WHATEVER authority may be awarded to the dictates of International Law, it will be allowed that, as a science, it has within the last two centuries exercised a mighty influence in the introduction of purer ethics into the political relations of states. The various schools of philosophy had indeed laid down rules for the conduct of life, and exhibited with much attractiveness the beauties of virtue. The idealism of Plato, the peripatetic philosophy, and the sayings of Socrates, Epicurus, and Zeno, may have built a moral structure of exquisite beauty ; yet they failed in leaving behind any precise and coherent system, whilst their doctrines bore too much of the abstract theory to influence the actions of individuals or of nations. It was only when the lessons of history, the precepts of natural and revealed law, the binding force of custom and treaty, and the very reason of the thing were reduced into a distinct system, and received as a separate branch of jurisprudence, that a new motive to rectitude, and an efficient restraint to lawlessness, were created for the government of international intercourse.

The public law of the ancients acknowledged not the exis-

tence, far less imposed obligations of morality towards foreign states. International relations were not felt to exist. The *Hero* was the arbiter of the nation's destinies. Cyrus aimed at an universal empire, and already Assyria, Babylon, Media, and Persia owned him as their common master. Whilst some nations were constantly in the pursuit of conquest for its own sake, others loved to remain in a state of utter isolation, and, like China, looked with abhorrence on those sanguinary scenes of rapine and massacre that were so familiar to warlike nations. Commerce somewhat softened these martial propensities. India, Assyria, and Egypt were bound by extensive commercial relations; whilst the Phœnicians and the Tyrians formed along the coasts of Africa great marts of merchandise; but the wealth they amassed by their industries, instead of shielding them from the dire effects of war, attracted the rapacity of neighbouring nations.

Greece had its era of heroes. The gods presided over the siege of Troy. Their wars with the Persians, the Egyptians, the Mesennians, and the Peloponnesians, have become landmarks in history. The Greeks viewed all other nations as barbarians, and their conduct in time of war was characterized by acts of savage cruelty. "Victory," said Homer, "is crowned with the massacre of the vanquished: their bodies are left to the dogs and vultures; sucking infants are dashed against the pavement, and women are reduced to the most abject slavery." Nevertheless, among their own independent communities, the Greeks recognised some principles of international justice, especially, by the constitution of the Amphictyonic Council, as a kind of tribunal of the Law of Nations for the pacific adjustment of contests between their several states. Although possessing excellent advantages for the prosecution of commerce, the intestine quarrels which lacerated the numerous Grecian States put an effectual barrier to its development, whilst the impetuous spirit of Alexander, who, not content with the narrow boundaries of

Macedon, penetrated the capital of Persia, and stepped beyond the banks of the Indus, involved Greece in the perilous career of foreign conquests, which, though painted in most attractive colours, left only vestiges of misery and destruction.

The Romans acknowledged no international law. Their wars were distinguished by as much cruelty as that practised by the Greeks. In their wars with the Etruscans, and Macedonians, with Syria and Carthage, and in their expeditions to Africa and Gaul, they dragged kings and generals at the chariot wheels of the conquerors. As the Roman Empire became consolidated, the Romans were distinguished for their judicial acumen, and they became also attached to the principles of public law. Their Collegium Fecialium, charged with fecial law relating to declaration of war and treaties of peace, evidences, at least, that international rights, though unheeded, were not unknown to the Roman people. Where, indeed, shall we find a more searching and more refined exposition of moral obligation, than in Ulpian or in Cicero? The principles of morals and justice as expounded by Roman jurists, have received in all ages the consent and admiration of the world. Commerce was deemed, at first, a degrading pursuit in Rome. Essentially given to warlike pursuits, the Romans disdained the drudgery of trading and speculation, until the extension of territory created wants which commerce alone could supply.

If such were the laws of war among the first nations of Europe, who otherwise claimed to rank among the learned and civilized, much more barbarous and savage were the customs of the nations on whom the Romans carried their wars. The Gauls carried home the heads of their enemies slain in battle, and preserved them embalmed in chests as their chief trophies; and when in their turn the northern barbarians invaded the Roman Empire, or when Genghiz Khan and Tamerlane made their incursions into the fertile countries of Asia, they spread every where destruction

with fire and sword, and spared neither man, woman, nor child.

First among the nations of antiquity, at least within the circle of historic evidence, the Jews exhibited the spectacle of a pure theocracy standing aloof from international intercourse. Whilst other nations, steeped in idolatry, were spurred on only by natural instincts, and led by the insatiable desires for glory, the Jews followed as their Leader, Divinity itself, and as their Guide, the dictates of Revelation. Nevertheless, even they, in their wars, often committed acts of cruelty. The vanquished were made to pass under saws and harrows of iron, and neither man nor woman was saved alive. The polity and constitution of the Jews were all but unknown to Western Europe in the Augustan era, even after Judea had become a Roman province. But the issue of an important ecclesiastical revolution led to the sudden universality of their Codes and precepts.

Rome had already been the scene of many revolutions. It had passed successively under the government of the Seven Kings, the Consuls, the Tribunes, and the Decemvirs. It had overcome the first aggression of the Gauls, and had suffered the Punic and the civil wars when Christianity was introduced, and with it the inauguration of a new era in the moral and religious progress of society. Although no obstacles, intercepted for a time, the practices of the new religionists the early Christians soon acquired a singular notoriety. Ascetic in their principles, and rigid and austere in their manners, they not only scrupulously abandoned all adherence to pagan worship, but secluded themselves from all offices and amusements of society. By thus, having forced themselves on public observation, the Christians began to excite the suspicion of the Romans—their religious assemblies bore the appearance of secret nocturnal meetings—calumnies were circulating, and crimes were imputed to them, until persecution commenced, and the blood of the first

martyrs was offered to gratify the monstrous cruelty of a Nero or a Domitian.

No nation, ancient or modern, pursued war with greater tenacity than the Romans. At one time, they ravaged the globe with their armies; at another, their generals turned their phalanxes against each other; and again, they had to defend themselves from the incursions of the Franks, the Alemanni, and the Persians. The public service demanded every man to be a soldier, and the Christians were called to share in the common perils of the country. But, consistently with their declared opposition to gladiatorial games and festivals, they refused all participation in military exploits, and asserted the principle that it was unlawful for them to carry arms. So strange an axiom was soon submitted to trial. Appealed to, by Celsus, to defend the country which was in danger of being overrun by the barbarians, their refusal was very explicit, on the ground of religious duty. "Can a soldier's life," said Tertullian, "be lawful; when Christ has pronounced that he who lives by the sword shall perish by the sword? Shall he who is not to avenge his own wrongs be instrumental in bringing others into chains, imprisonment, torment, and death?" Enigmatic as such reasoning might appear to a pagan Centurion, the Christians persisted in asserting their conviction that it was their duty to love their enemies—that it became them to abstain from all manner of violence, and to become distinguishable as the followers of peace; and that the slaughter of men in war was neither more nor less than direct murder. This seditious spirit was easily resisted, and they expiated, at the stake, the penalty for their scrupulous humanity.

There was, indeed, nothing in common between the religious opinions of this fragment of Roman subjects and those of the nation. Paganism and Christianity were diametrically opposed to each other. The one was surrounded by mystery and pomp, the other was shrouded in

obscurity and simplicity. The Augurs, the Keepers of the Sybilline books, the Vestals, the Epulus, the Flamens of Jupiter, and the King of the Sacrifices, had each majestic and significant functions in the structure of the Pagan temple; whilst the Christian worshipper made a temple of his heart, and recognised in his visions beyond the skies, his only high-priest and judge. We need not wonder, then, that whilst the service of the altar was hitherto not deemed incompatible with the command of armies, opposite notions should now be entertained by the early Christians, and a higher standard of morality be openly advanced. Three hundred years had elapsed since the Founder of the Christian religion had left his precious legacy, when Constantine, the Roman Emperor, issued his first edict of toleration in favour of the Christians, and eventually embraced their faith. Relieved from obloquy and persecution, the Christians looked to Constantine as their great defender, and they trusted he would set forth a worthy example, in his noble mission, as the first Christian prince.

The Christian Church was now established, and the Empire was divided into four prefectures. But two important questions offered themselves to be grappled with: 1st, Must a Christian prince renounce for ever that system of warfare which had hitherto universally prevailed, and must he adopt the stringent ethics of the gospel as the rule of conduct of states as of individuals.—2nd. Was a Christian prince to sanction the existence of Paganism in the Roman Empire? Constantine had been from his earliest youth trained to war, to action, and to military command. He had combatted and defeated Maxentius, obtained victories against the Franks, valorously triumphed in the civil wars; and had, at last, obtained an undivided possession of the Roman Empire. Had the conversion of Constantine to Christianity been accompanied by a reform of character as complete as that which distinguished the conversion of the early Christians,

he might have inaugurated a system of government totally at variance with the existing customs. Far, however, from such a consummation, the civil and foreign wars of Rome did not, after his conversion, become less frequent or less cruel. Again, Paganism was now no more the religion of the state, and the sovereign must have regarded it as idolatrous and criminal. Yet Constantine granted to Paganism his imperial shield, and at his hand it had only to deplore the subversion of the statue and altar of Victory. For a time the inconsistent character of Constantine did not exercise much baneful influence on the Fathers of the Christian church; and when they assembled their first Ecumenical Council at Nice, in A.D. 325, which was attended by Constantine in person, they pronounced, with reference to the unlawfulness of war, that such of their co-religionists as may have succumbed to violence, and have again enrolled as soldiers, should be excluded for thirteen years from their communion.*

The successors of Constantine, Julian, Jovian, Valentinian, Gratian, and Honorius, down to Theodosius, maintained a quasi-neutrality in religious matters. Unfortunately for the Christian church, it was at that momentous period, when the defection of the sovereign and princes who had hitherto shielded the church with their patronage demanded more than ordinary constancy, that a gradual declension of fervour and of piety was experienced among those who were called to maintain intact the sacred edifice. Gradually, as Christianity extended, its distinctive characteristics of meekness and love became evanescent. Thenceforth, its inherent power was lost; and its ministers, unable to resist the pride of, or to administer reproof to, their lords, were compelled to abandon the sacred character of Christian teachers, to assume that of priestly courtiers. In one important

* II. Canon.—Grotius *De Jure Belli et Pacis*, B. 1, ch. ii. § x. 7. This canon, in the opinion of Grotius, is dependent on the preceding one, referring to idolatry.

element, however, Christianity had already eminently succeeded. It had become an institution—a Church—with its own government, revenues, &c., a most beneficial organization to secure its stability amidst the impending fall of the Roman Empire. The division of the Roman Empire—the continued attacks of the Huns—the descent of the Lombards into Italy; and, above all, the introduction of the Mahometan power over Arabia, Persia, Syria, Egypt, and Africa, filled the fifth, sixth, and seventh centuries with slaughter and devastation. Thus it is that the precepts of Christianity, which were apprehended in their full import by but few individuals at most, whose piety became the butt of a sneering multitude, can scarcely be said to have at any period successfully controlled the passions of peoples, or stemmed the current of universal conflict.

In the eighth century, the zeal of Charlemagne was devoted to the repression of barbarism, and to arrest the Mussulman and the Germanic invasions, whilst as an Exarch and patrician, he proclaimed the peaceful doctrines of the gospel of Christ to the Huns, the Saxons, the Frieslanders, and other German nations, at the point of the sword. As a reward for his bloody deeds, the warrior was canonized into a saint. Nevertheless, much is due to the memory of Charlemagne. Firm and energetic in action, he succeeded in introducing throughout Europe a greater respect for public and private right. It is to him also that we owe the introduction of Consular establishments.

The Papal power, the creature of a degree of special deference paid to the Bishop of Rome, the seat of empire, and the capital of the world, had already undergone various vicissitudes. The ambition of the Bishop of Rome had indeed attained its climax since the sixth century, when he was proclaimed Universal Bishop: but what an engine did that appellation furnish for the exercise of unlimited temporal authority! Already the Monarchs of Christendom coveted the honour of being crowned at the hand of a Bishop or an

Archbishop; a privilege often used to put the consecrated crown on the usurper's head. But it was with the election of the great Hildebrand, (Gregory VII.) that the world learnt the full power of a spiritual sovereign. Thence it was that the Popes exacted and received tribute from the greater part of the European States; and that at their bidding royal dignities were conferred and taken away.* Oaths of loyalty were also imposed, and annulled; and Crusades were preached by Popes against refractory kings and republics, such as Venice in 1309; against schismatic princes, such as the Greeks and Russians; against pagans, like the Slavonic tribes on the Baltic; and against heretics, like the Vaudois, the Albigenses, and the Hussites. And it was at that period that the canons and laws of the church were compiled by Gratian, and acknowledged to be the laws of all her tribunals.

Whatever excesses the Papacy indulged in at the time of her undisturbed power, let it be remembered that the church was placed in a position of unparalleled difficulty. The incessant wars which raged throughout Europe both between states and between individuals—the deplorable state of morals—and the open piracy and pillage which infested the seas and the highways, demanded repression and rebuke. In vain the Popes thundered their anathemas;—the truce of God itself, or a periodical suspension of hostilities under the safeguard of the Church, became a mockery. It was at this period also, that the Pope attempted to act as an international judge to whom princes and nations could submit their quarrels—noble functions, certainly, and such as the chaotic state of the middle ages especially demanded. It would even

* *King John*.—Thus have I yielded up into your hand,
The circle of my glory.

Pandolph.—Take again,
From this my hand, as holding of the Pope,
Your sovereign greatness and authority.

Shakespeare.

now be the idealism of perfection. On the one hand, we have nations and princes, often the victims of ignorance and passion, plunging into bloody contests, or placed in positions of extreme nicety amidst unjustifiable pretensions, and distant and immediate dangers ; and on the other, a Divine Code of laws, based on the highest standard of justice, and affording a clue to the present and future moral government of the world. Had we an authoritative interpreter of its precepts, combining in himself the highest wisdom, impartiality, and rectitude, and so deserving and obtaining for his dicta the unanimous and devoted submission of the human race, we might with reason point out a valid cure for many of the diseases of human society. Such were the aims of the Pope as a spiritual power ; but, in the words of the learned Dr. Phillimore, " Experience and history demonstrate that this authority was one which no mortal hands were made to wield. Had the practice corresponded with the theory of this great tribunal, it is conceivable that the foundation of its manifestly beneficial authority might never have been scrutinized. But for such a tribunal, the most perfect disinterestedness—the most entire freedom from the suspicion of ambition, personal and pontifical—the most unspotted character—the most innocent, unworldly life—the most ardent love of justice—the most fearless disregard of persons, were indispensably and perpetually requisite. It was not enough that some of these qualities should be possessed, or that some Pontiffs should possess them. There must be a security that none but those who possessed them should ever be placed upon the judgment-seat of the world. But an Italian Sovereign, mixed up with the quarrels of his neighbours, seeking the aggrandizement of his own territories, relying for his claims upon forged credentials, founding his authority upon false decretals, at one time the instrument of the ambition of Germany, at another of France, residing at Avignon, contending with a rival Pope at Rome who

possessed apparently equal credentials,—fighting like Julius II.,—infamous beyond expression, like Borgia,—worldly and luxurious, like Leo,—and, in much later times, refusing to recognize, as in the case of Prussia and Spain, the Sovereign chosen by the constitutional law of independent kingdoms,—such a sovereign was palpably unfit to be the unappealable dispenser of international law.”*

We must leave this highly interesting chapter of international jurisprudence, and all consideration of the pretensions of the Papal see formally promulgated in the famous Bull, entitled *In cœnâ Domini*, and also known as *Pastoralis*, to direct our attention to that episode of European history, when the idea of the Crusades first suggested to the Christian Princes warlike schemes on behalf of, or as a chivalrous tribute to, their religion. From the earliest ages of the church, pilgrimage to the Holy Places became customary among Christians. Devotion and interest were soon intermixed; and when the vicissitudes of the Eastern Empires subjected Palestine to Turkish insolence and cruelty, the complaints of the Christian trader were echoed by the woeful lamentations of the Christian pilgrim. A holy war, to rescue the chosen country from the impious hands of the Mahometans, became the common cry. Sylvester gave the signal for the bloody contest, and in the name of the Church of Jerusalem, and of the Church Universal throughout the world, the European powers were solemnly exhorted and entreated to succour and deliver the Christians in Palestine. A sullen inactivity prevailed for a while at the papal summons. The time was not yet ripe. Gregory IX., burning with zeal for universal sovereignty, had already exchanged his purple and mitre for the sword and the shield, and 50,000 men mustered for the expedition. But again it was frustrated. Now Peter the Hermit, with breathless activity, visited Court after Court, and by his fiery appeals aroused violent indignation at the persecution which the

* Phillimore's International Law, vol. ii. p. 328.

Christians visiting the Holy Places were suffering from the tyrannic Saracens. Council succeeded Council, and so spontaneous, so universal, and so popular was the movement, that at the pathetic and solemn address of Urban II. at Clermont, 800,000 men, full of enthusiastic ardour, enrolled themselves under the banner of the cross, to wrest the Cross of Christ out of the hands of the infidel. But the spirit which animated so strange a host was far from that of true piety. The crimes which marked the steps of the Crusaders and the blood which stained their garments, were ill befitting their mission, and offered a spectacle not very exemplary to the enemies of the cross. The issues of so sudden an outburst of fanaticism are well known. Other crusades were afterwards attempted; but the causes of the former universal impulse were no longer in existence, and they failed.

Although the Crusades gave rise to much crime, to inordinate excitement, and to intense suffering throughout Europe, they were not altogether unproductive of wholesome influences. Thenceforth, a great extension of ideas took place, and an impetus was given to knowledge and industry, whilst an alliance was thereby created of the Christian powers of Europe, who were bound together by a sense of common duty and interest. Concurrently with these causes, it may be allowed Chivalry also had influence in producing some refinement of manners, and in inspiring some sense of fidelity, honour, and magnanimity in warfare; and in progress of time, Treaties and Conventions laid the foundation of the Public Law of nations.

Whilst such was the political state of Europe and Asia, during the Crusades, a fresh and all-powerful impulse was imparted to maritime discoveries. The general ignorance of the Crusaders created a spirit of inquiry, which led to the opening of new routes, and the penetrating of new regions. The mysterious needle opened to man the dominion of the Ocean. The Cape of Good Hope was doubled, and, animated by the royal zeal for discovery, India was visited by the

Spaniards. The discovery by Columbus of the New World followed, and the whole of America was opened to European industry and influence. But alas! what excesses were there committed by civilized Europeans!—What crimes under the mask of religion!

Returning from the political into the ecclesiastical world, the Popes became distinguished for their lust of dominion and for their arrogance. The bishops and canons lived in dissolute mirth and luxury; lewdness prevailed among them to an alarming degree; swarms of monks overspread Europe, and a round of external ceremonies was the sum total of the public worship of God. Here and there signs of discontent began to manifest themselves, until at last Mind, long trodden under foot, and Thought, long shackled by superstition, claimed their emancipation. A period of impatient inquiry followed, and Martin Luther opened the field for a mighty revolution of ideas, and dethroned the Roman pontiff from the heart of many a devout follower. Luther, Melancthon, Bucer, Zuingle, and Calvin, a constellation of reformers of the first magnitude shone brightly in the dark firmament. Luther, bold and uncompromising; Melancthon, all mildness and charity; Zuingle, full of genius and penetration; Calvin, a rigid disciplinarian and a promoter of learning—each had his allotted share in the mighty task; but the work they proposed to themselves was a definite one, and *that* they accomplished. The times were too agitated for the attempt to restore the Christian church to its original simplicity; and whilst the athletic mind and indomitable character of a Luther were necessary to execute so great a reform amidst an opposition so systematic and formidable, his nature and disposition did not constitute him the *beau-ideal* of a Christian. Nor, if we can follow Schiller, the illustrious writer of the thirty years' war, are we right in ascribing the whole movement of the Reformation to the invincible strength of truth. Doubtless the abuses in the old church, the absurdity of

many of its doctrines, the extravagance of its demands, necessarily excited the tempers of men already delighted with the appearance of a better light, and inclined them to the reception of the new doctrines ; but, besides this, considerations of state policy especially, compelled the Princes to espouse the cause of the Reformation. Formed of such elements, we cannot wonder that the Reformation has failed to produce a decided change in the martial propensities of the age.

On the contrary, instead of calming the passions, the Reformation introduced a new element of convulsion in Europe. No sooner did religious thought become a living power, than the birth-place of Protestantism also became the theatre of a fierce civil war. The more truth spread its beneficent rays over the European States, the more it provoked the uncompromising opposition of the abettors of ignorance and superstition. Persecution raged. The massacre of the Protestants on St. Bartholomew's Eve became the watchword of incensed Europe. Spain was prosecuting war with the United Provinces. And Germany, divided into nearly equal portions of Catholics and Protestants experienced a desolating thirty years' war, which, from the interior of Bohemia to the mouth of the Scheldt, and from the banks of the Po, to the shores of the Baltic, depopulated countries, destroyed harvests, and laid towns and villages in ashes : a war, in which more than 300,000 combatants found a grave, which extinguished for half a century the awakening sparks of civilization in Germany, and reduced the improving manners of the country to their ancient wildness and barbarism. At last the sanguinary war ended by the Treaty of Westphalia. Protestants and Catholics thenceforth agreed to the recognition of their mutual existence ; yet the Pope was no party to such a treaty, and put forth a protest against it in the shape of a Bull.

It was at this period, under the auspices of Charles V., that the African Slave Trade, famous for its barbarous cruelties, commenced, by the importation of negroes from the coast of

Guinea to the West Indies and America.* Whilst the New World was being overrun by European adventurers, intro-

* The Slave Trade originated with the Portuguese as far back as 1442, when they brought into the Spanish Colonies of America the first Negroes purchased in Africa, with the singular notion that by such an importation they would prevent the destruction of the Aborigines of the Antilles, then smarting under the burden of the rapacious colonists. Bartholomew la Casas proposed to Cardinal Ximenes to legalize such a trade, but the Minister rejected it. In 1715, Charles V. authorized it formally, and granted to his favourite, Bresa, the monopoly, for the annual introduction of 4000 blacks, which Bresa transferred to the Genoese. In England the Slave Trade was authorized under the reigns of Edward VI. and Elizabeth, and in France under the reign of Louis XIII. The Negroes inhabited all the portion of Africa, south and east of the desert of Sahara to the 22nd degree of Austral latitude. It is estimated that in three centuries the Europeans robbed Africa, by such a trade, of 30 millions of inhabitants. The English exported from Africa more than 300,000 slaves between the years 1680 and 1700 ; and between 1700 and 1786, 610,000 Africans were imported into Jamaica alone. To the Society of Friends the honour is due of having been the first to raise a voice of sympathy for the Slave and against the atrocious Slave Trade. In 1776, Granville Sharpe made the first motion in the House of Commons on the subject, and soon after, Clarkson and Wilberforce, Pitt and Fox, lent their magic eloquence in this noble cause. After long and keen opposition, a measure for the total abolition of the Slave Trade was triumphantly carried in 1807, a measure which was succeeded by the total abolition of Slavery in the British Colonies, and twenty million pounds sterling were awarded as a compensation to the slave holders. Already Denmark, under Christian VII., had decreed the abolition of the Slave Trade, from the 1st of January, 1804. America abolished it at the same time as England. France followed, prohibiting such a trade to French subjects, from the 1st of June, 1819. The Netherlands also did the same, by a decree of the 15th of June, 1815. And treaties were entered into between Great Britain and most of the States of Europe, Asia, Africa, and America, for the total prohibition by law of the sale of slaves for exportation, as well as for treating such traffic as piracy, and subjecting slave vessels to confiscation. It is gratifying to find that, notwithstanding the heavy self-sacrifices which the abolition of the Slave Trade imposed, the iniquitous system has been almost entirely prohibited in the civilized world. Nevertheless, much remains yet to be done. In Cuba, Brazil, Muscat, the States of Turkey, and on the east coast of Africa, the sale of slaves is still prosecuted, and with a degree of astuteness which baffles the utmost vigilance of the cruising squadron.

ducing the impetus of a new life, with its crimes and its vices ; and whilst Africa became the prey of rapacious traders, who lowered the human soul to the level of an article of commerce, Europe itself was in a condition of extreme peril. Numberless public and private wars devastated its states and provinces. Public law was altogether extinguished. The ecclesiastical tribunals were countenancing the most bare-faced derelictions of public duty. Disregard of the sacred obligation of an oath, disloyalty of subjects to their sovereigns, and even the murder of a king, met at the hand of the Papacy perfect immunity, or even reward. Society itself felt the loosening effects of so many paralyzing influences. But, fortunately, as the opportunity demanded, the individual arose who undertook to systematize the Law of Nature and Nations. "I have observed," said Grotius, "throughout the Christian world, such a reckless licence with reference to war, of which even the most barbarous nations might be ashamed. Without any reason, or for the slightest motives, war is generally resorted to, and in the prosecution of it, all divine and human laws are trodden under foot, as if then any crime could be committed with impunity." To remedy this state of things—to show under what extreme circumstances, if any, war could be lawfully undertaken, and to set a bound to the licence of the combatants, were the objects of the *De Jure Belli et Pacis*. The task was an herculean one ; but Grotius was peculiarly fitted for such an undertaking. Together with profound learning he possessed a free spirit, much penetration of judgment, a great love for truth, as well as courage to propound it. Deeply conversant with the Scriptures, Grotius was in all respects a zealous Christian and a Protestant. Of Grotius and his work, Sir James Mackintosh eloquently said, "If we fairly estimate both his endowments and his virtues, we may justly consider him as one of the most memorable men who have done honour to modern times. He was distinguished as an advocate and a magistrate, and he

composed the most valuable work on the law of his own country. He was almost equally celebrated as a historian and a scholar, a poet and a divine, a disinterested statesman and a philosophical lawyer, a patriot who united moderation with firmness, and a theologian who was taught candour by his learning. Such was the man who was destined to give a new form to the law of nations, or rather, to create a science, of which only rude sketches and undigested materials were scattered over the writings of those who had gone before him."

Some correct ideas of international law had been propounded in the sixteenth century by the Spanish jurists Vasquet (1509-1566) and Suarez (1548-1617). After these, and much more luminously, Alberico Gentili, a native of Italy and professor of Civil Law in the University of Oxford, wrote his *De Jure Belli*, a work of considerable merit; but Grotius was the first who by immense learning and research endeavoured to establish the true foundation of the science. After him, Puffendorf wrote his great work in 1625-1673, but of a somewhat ponderous nature, though richer than that of Grotius in the exposition of natural law.

The great philosopher Leibnitz, in 1693, wrote the learned *Codex Juris Gentium Diplomaticus*, and after him Wolff, his disciple, published his *Jus Naturæ Methodi Scientificè Pertractatum*, but though it exhibited great depth and vigour of thought, Wolff failed in arrangement, whilst he was profuse in technicalities. Vattel gave to this work a new clothing of his own, and with the publication of his *Jus Gentium* he succeeded better than any preceding writer in giving to the Law of Nations a logical, condensed, and popular aspect. Numerous other writers have since contributed to the development of the science of International Law—such as Montesquieu, De Rayneval, Bynkershoek, Von Ompteda, Lampredi, Galiani, Reddie, Drs. Wheaton and Phillimore. Its principles are now better understood and widely appreciated; but can we say that they are uniformly acted on, and that

they are capable of being enforced? Whatever recognition they may obtain as the dictates of abstract justice or the result of custom or treaties, are they not often set at nought wherever parties in a state of war place themselves beyond the restraints of the moral influence of mankind?

Towards the end of the seventeenth century, England was undergoing the ordeal of the revolution, and Louis XIV. was elevated to the throne of France. The ambition of the latter gave rise to extensive European wars—the war of the Succession, the Spanish war, and the Seven years' war—which agitated Europe and America for a lengthened period, until they were concluded in 1715, by the treaty of Utrecht. These political reverses were followed by the American war of independence, and that war was scarcely ended before the French Revolution in 1788 kindled the flame of discord throughout Europe. With it, France became the field of the most pernicious doctrines respecting human rights and human duties, producing the severance of all social ties, the disruption of all political bonds, the setting loose of hordes of criminals, and the destruction of all that is sacred in religion. Napoleon turned the enthusiastic fervour of the French republic from civil war to open aggressions on foreign states, and nearly thirty years of conflict constituted Europe, Asia, and Africa, the scenes of undescribable miseries. During that period some of the most established principles of International Law were openly disregarded, and the most iniquitous cruelties freely indulged in by all nations. The treaty of Vienna of 1815 concluded the sanguinary contest, and since then Europe has enjoyed forty years of comparative peace. During it, Religion, Civilization, Commerce, Navigation, and the Arts and Sciences made rapid and solid progress. We have witnessed great moral revolutions, and there were times when, like that of the Great Exhibition in London, in 1851, we were led to indulge in anticipations of an era brighter than

ever yet experienced. Ennobling were the sentiments delivered by one of the most eminent philosophers, Sir David Brewster, in the midst of a gathering of the learned and the philanthropic from all nations:—"The game of credulity, the condition of early science, and the sphere of the magician, the conjurer, and the alchemist, has, like that of superstition, been played, and the truths which once administered to imposture have become the sources of wealth and the means of happiness. The game of ignorance, has also been played, and the schoolmaster has buckled on his armour to replace it with knowledge and virtue. The game of slavery, too, has nearly been played—that monstrous condition of humanity which statesmen still living, hold to be inseparable from social life, and which men, still called Christians, defend from Scripture. The game of duelling—the game of personal war, in which false honour and morbid feeling make their appeal to arms, and which was not only defended but practised by Christians—has likewise been played; and even the soldier, who was supposed to have a prescriptive title to its use, has willingly surrendered his right of homicide and manslaughter. The game of revolution and of despotism which is now playing before our eyes will, in its turn, be played, and with it the game of war will terminate."

Expectations like these are not, however, of sudden realization. There is much gloom, as yet, in the political horizon, and religious questions prove now, as in former times, the incentives to discord and war. It must henceforth be the mission of International Law, founded on the unalterable principles of Natural and Divine Law, to establish the basis of permanent recognition of the mutual rights of nations, and it must not content itself, as heretofore, with diminishing the acts of cruelty committed in time of war. Its most dignified function will be to assert in its authoritative voice the criminality of war itself, and its incongruity with the best interests of mankind. It may also be expected that as

Christianity spreads its benign influence, its effects will be felt in international intercourse, as it will subdue the passions, abate the heat of ambition and the desire of supremacy and domination, establish justice, and promote the welfare of mankind.

CHAPTER II.

THE LAW OF NATURE APPLIED TO INDIVIDUALS.

UNDER the comprehensive name of the Law of Nature, there are often confounded several distinct ideas. By the Law of Nature, we do not speak of those physical laws which govern the Universe, such as the order and the harmony which prevails in the revolution of the planets, the return of the seasons, the laws of gravitation, and such like ; nor do we include in it the rights or instincts of Nature, often spoken of as the Laws of Nature. The Law of Nature, under our consideration, consists of those rules which nature prescribes to man as guides for his safety, and is called "the Law of Nature," because, in the words of Sir James Mackintosh, its general precepts are essentially adapted to promote the happiness of man, as long as he remains a being of the same nature with which he is at present endowed, or in other words, as long as he continues to be man, in all the variety of times, places, and circumstances in which he has been known, or can be imagined to exist ; because it is discoverable by natural reason, and suitable to our natural consideration ; because its fitness and wisdom are founded on the general nature of human beings, and not on any of those temporary and accidental situations in which they may be placed. If we analyze the springs of our actions, it will be perceived that, in common with all animals, we act by mere instincts in the craving and seeking for food, shunning blows or other similar acts done without control or discretion. Different, however, from all other animals, we possess an innate sense of morals, by which we are enabled to distinguish between right and wrong, and to discern what is just and unjust. And besides this innate moral sense or inward monitor, man possesses reason, by which he is enabled to prove and to establish

the natural impression of the moral sense. Evidence of the universality of the Law of Nature is found in the statement, "When the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves; which shew the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the meanwhile accusing or else excusing one another."* The operation of this Law of Nature is to direct man, first, to his duties towards his Creator, from whom he receives his life, reason, and all that he possesses; second, towards himself to procure his own welfare; and, thirdly, towards society at large. For the purpose of our present inquiry, it is important to distinguish clearly the several functions of the instincts of nature, the moral sense, and reason, and we shall afterwards consider in what respects the dictates of the Law of Nature receive confirmation from or are themselves controlled by the written or revealed Law of God. In the description of the Law of Nature, the highest power of language has been exhausted, and it has been characterised as primitive, universal, invariable, evident, reasonable, just, pacific, and beneficent.

SECTION I.—STATE OF SOCIETY.

Whilst such is the character and universality of the Law of Nature in its correcting and instructing influence, it is nevertheless evident, that man left in a state of nature, uncultivated, and uncivilized—a creature of instinct, and of impulse—is unable clearly to distinguish the teaching of the moral sense, or the warnings of correct reason. Such, indeed, is the condition of man in his rude state of life, and such is the fierceness of his disposition, when agitated by passions or by fear, that it has given reason to contend that the natural state of man is one of perpetual warfare—that every man is an enemy

* Romans ii. 14, 15.

to every man whom he neither obeys nor serves ;* just as Oppian described the state of fishes :—

“ In mutual war they swim and mutual hate,
The weak, the strong, the smaller, feed the great,
Destructive rage boils in the restless flood,
Each frights and fears, pursues and is pursued.”

When the Polynesian Islands were first visited they were found steeped in blood. In fifteen years, Otaheite, was involved in actual war no less than ten times. Human slaughter was a chief element of their worship, and their deity would accept no victim which had not first been bathed in the stream of its own life. On a wider examination, however, it will be found that although infanticide and polygamy, and even deeper crimes may blot the character of some uncivilized nations, they are found to be not all strangers to the finer feelings of nature, or to a sense of humanity and justice. The Peruvians† were enjoined by their religion to love one another. They committed no crimes. The old and the infirm were maintained at public charge. The Haytians, though they were in the lowest degree ignorant, yet were humane, void of malice and revenge, and almost divested from any passion whatever, and the Brazilians having no belief in, or any definite knowledge of, a Supreme Being, were nevertheless, never prompted to war for motives of interest and ambition. A spirit of combativeness is rather acquired than innate, and it is the result of passions excited by sensual appetites, or by the uncontrolled gratification of desires ; and just in proportion as the dictates of the Law of Nature lose their influence, so the instincts of nature in their gross and brutalizing influence become the active movers of human actions.

Thus it is not want and distress that are most productive of crimes, but rather that state of excess acquired by a

* Hobbes' *Leviathan*.

† Reyvenal, *East and West India*, vol. iv. p. 481.

personal abandonment to rioting and drunkenness, that usually results in misery, crime, and the jail. A San Franciscan returning from the golden diggings, heated by the fever of recently acquired wealth, though a civilized man, is in manners and character more essentially a savage, than an Indian of North America, roaming amidst woods and forests.

SECTION II.—DUTIES OF MEMBERS OF SOCIETY.

A wise and beneficent Providence has placed man in a state of society, wherein, by the mutual exercise of good offices, under like wants and like dispositions, as members of the same race, and as children of the same Heavenly Father, we may promote our common welfare and happiness. To obtain this end, the Moral Sense, Reason, and Divine Law have prescribed certain precepts, and implanted in us certain ideas of virtue and goodness, which carry with them the sanctions of our inward conviction, and of the laws which are instituted for the government of society. Of these moral precepts and virtues, love or benevolence is the most important, and is itself the basis of all other duties.

We shall not enumerate or illustrate the numerous modes in which these duties find their application, such as in filial, parental, conjugal, or fraternal affection; in loving our fellow-citizens; in feeling compassion or sympathy for the afflicted, in cultivating a spirit of forbearance, in forgiving injuries, and the like. Nor shall we indicate the other classes of duties connected with truth and order, such as the obligation not to lie, and to perform promises, to preserve purity and to obey the laws. These properly belong to a system of morals.* Yet they are the bonds by which the structure of society is supported, whilst its harmonious progress is secured by the numberless acts of kindness hourly performed, the multitude of spontaneous and self-sacrificing deeds of com-

* See Whewell's *Elements of Morality*.

passion—the mutual exchanges of often small and unheeded tokens of mercy and love—the general adherence to truth, and the comparatively extensive observance of the precepts of morality and justice. These cannot be reduced to numerical facts. Were it so, it would be found that, notwithstanding all its apparent deformities, the social system, as a whole, bears the most complete evidence of the wisdom and goodness of its munificent Creator and upholder, whose name is majestically declared to be LOVE.

SECTION III.—CAUSES OF CRIME.

We have already observed that it is the special province of the Law of Nature to control the inordinate exercise of the instincts of nature. In such functions, however, it has not succeeded. The total subjugation of our dispositions to the pure dictates of Natural Law, even when assisted by the clearer light of Divine Law, is beyond human reach—Hence crimes. There are, moreover, causes of human aberration which operate in an almost uniform proportion over society at large, and which are capable of being reduced to general and fixed laws. The collection and analyzation of these, furnish the means to estimate the several external circumstances by which men are influenced in the perpetration of crime, and also the degree of moral restraint to which man is subject, and the intensity of the passions which burst through that restraint. The criminal statistics of the United Kingdom have not as yet this important item—the remote or immediate motives to crime; they indicate the various descriptions of offences committed against the person or property with violence or without—the sexes of the persons committed—the amount of education among criminals—the ages of the several persons committed—and the proportion of criminal to population. It appears, however, that the motives to crime may be classified under four heads, viz. :—

Desire of gain, including profligacy and distress ; indulgence of sexual desires ; malice including revenge ; and all cases arising from ill-will and wantonness, &c. A full analysis of the motives to crime is given with the criminal statistics of France, for the period from 1825 to 1850, from which we extract the following interesting quinquennial summary :—

QUINQUENNIAL PROPORTION OF CRIME PER 1000 UNDER THE
RESPECTIVE CATEGORY OF MOTIVES.

Motive of crime.	1826 to 1830.	1831 to 1835.	1836 to 1840.	1841 to 1845.	1846 to 1850.
Cupidity, including robberies, incendiaries, &c. }	130	145	174	178	183
Domestic dissensions	136	106	118	138	129
Jealousy, adultery, &c.	135	119	119	119	112
Hatred	310	328	299	271	306
Quarrels at public-houses	65	94	107	95	88
Fortuitous engagements	89	49	41	51	42
Other motives	135	159	142	148	140
	1000	1000	1000	1000	1000

As the first step towards administering remedy to a disease is to obtain a distinct apprehension of its causes, so it is only by pondering over the causes of crime that we can arrive at the real wants and defects of society. Thus, it having been by repeated experience established, that crime is intimately associated with ignorance, no efforts are spared to disseminate among the many the blessings of education. Drunkenness has at all times been the parent of crime, and both legislation and philanthropy are contributing their quota to the promotion of temperance. Agrarian crimes become numerous, and the state of the law relating to landlords and tenants is subjected to the necessary reform.

SECTION IV.—THE LAW OF CRIMES.

If the causes which prompt to crime follow a given law, the commission of the same is also characterized by a wonderful

amount of regularity and constancy. Of all the phenomena of nature, none is more interesting to explore than the law of the uniformity of the human will. In all that relates to crime, said the celebrated M. Quetelet, the utmost constancy of number is experienced; a fact especially remarkable with respect to such crimes as murder, or manslaughter, which are generally committed in the heat of dissension, or are the result of most fortuitous circumstances. Criminal statistics show no capricious divergence in the number and kind of crimes committed in any year. Within a limited per centage, the same number of murders or any other offences is perpetrated every year, and upon a given proportion to the other kinds of crimes under the usual classification. The following table shows the number of criminals convicted in England and Wales during the decennium from 1841 to 1850:—

	Offences against the person.	Offences against property with violence.	Offences against property without violence.	Forgery and offences against the currency.	Malicious offences against the property.	Other offences not included.	Total number of persons convicted.
1841	1384	1454	16,285	347	42	768	20,280
1842	1375	1642	17,664	501	86	1465	22,738
1843	1539	1799	16,345	513	88	808	21,092
1844	1413	1246	14,923	432	154	751	18,919
1845	1285	1066	14,230	340	51	430	17,402
1846	1377	1084	14,865	330	71	417	18,144
1847	1285	1324	17,904	431	69	529	21,542
1848	1486	1595	18,352	580	81	806	22,900
1849	1214	1591	16,953	545	144	554	21,001
1850	1269	1558	16,587	583	88	452	20,537
Average 10 years	1362	1435	16,410	460	87	698	20,455

It will appear from this table that, on an average, the number of criminals in England and Wales is 20,455, which, with a population of 17,922,768, would amount to 0·11 per cent., or 1 in every 876; or, in other words, for every 876 individuals of the population there will be one convicted of some crime. If we particularize murder and attempts to murder, and observe the number convicted of

such crimes during the same periods, we find the following results.

	1841.	1842.	1843.	1844.	1845.	1846.	1847.	1848.	1849.	1850.
Murder	20	16	22	21	19	13	19	23	19	11
Attempts to murder . .	6	3	9	1	4	9	4	6	2	8
Shooting at, Stabbing, } Wounding	5	1	6	2	3	8	2	3	2	9
	31	20	37	24	26	30	25	32	23	28

This table shows that on an average there are 27 persons per year convicted of the crime of murder, and attempts to murder, in England and Wales, that is to say, 0·00015 per cent. of the population; or, in other words, there will be one person convicted of murder, or of attempts to murder, in every 663,807 inhabitants. Such is the proportion of danger incurred from the amount of criminality.

SECTION V.—THE NATURAL LAW OF SELF-DEFENCE.

Nothing seems more implanted in our nature than the law of self-defence. We all experience that natural propensity to procure our own preservation, and to avoid anything which might injure ourselves. Dr. Whewell, enumerating five desires as the leading springs of human actions, includes this propensity to shun and fear blows, wounds, bodily constraints, menace, and the anger of those who are stronger than ourselves, into one group of fears and aversion, forming one single mental desire—the desire of personal safety. Towards the attainment of such natural desire, nature has administered to all animals some means of defence. The Panther has her teeth, the Lion his nails, the Bullock his horns, and Man his arms. But whilst they possess all in common, such physical means of defence, man alone, as it has already been seen, possesses that faculty of the mind, of observing whether that which is in conformity with the instincts of nature is in

itself reasonable or right; a faculty, moreover, which enables him, by well-regulated plans, to prevent dangers and to neutralize their action. The instincts of nature would lead us to use any means of self-defence within our reach, and to act as by impulse, in order to repel force by force; but it is just in proportion as our instincts are subjected to the moral sense and reason, or to a sense of what is honest and right, that we are raised from the animal to man.

SECTION VI.—DEFENCE OF THE PERSON.

Life, is doubtless, the most prized of all the gifts we possess. It is the object of our most tender cares. No sacrifices are deemed too great—no sufferings too severe, but are readily and cheerfully made and undergone for the preservation of this most valued possession. We are, therefore, under a necessity to preserve life, and whenever we are actually attacked, and run a certain risk of losing life, the instincts of nature seem to call upon us to offer a firm resistance, not so much from the injustice, or the crime on the part of the aggressor, as from our right to provide for our own preservation. We are impelled especially to it by our instincts of nature, which in time of imminent danger, assume an unlimited disposal of our body and mind. And it would matter not, whether such an aggressor be a soldier acting on duty, or a lunatic. Whatever may alleviate his criminality is nothing to us, if by prompt defence we are not to thwart his murderous act.

But such an unlimited exercise of self-defence can only be allowed to persons beyond the protection of, or not subjected to the duties consequent upon a state of civil society. Among nations uncivilized and barbarous, the right of private vengeance is uncontrolled, as was the case with the Arabs before the time of Mahomet, or among the Persians, among

the Germans, and the tribes of America. As soon as civil tribunals were established, the right of avenging ourselves, or of meeting force by force in private quarrels, was in a great measure taken away, and it is only in certain extreme circumstances well defined by law, that the plea of self-defence would be admitted in a court of justice. Thus, wherever it is not within our reach to appeal to a court of justice, or when danger is immediate and there is no time to wait for the interference of the officer of justice, or when there is no tribunal to appeal to, as at sea, or in a desert; or again, in cases of rebellion, where the tribunals are unable to exercise the power and majesty of the law; in such cases the individual must be left to the exercise of his own moral sense and reason, and in the eye of the law he would be justified in requiting a sudden and unexpected aggression.

By the English law, it is lawful for a man for his own defence, or in the mutual or reciprocal defence of such as stand in the relation of husband and wife, parent and child, master and servant, when the party himself or any of his relations be attacked in his person or property, to repel force by force, even to the extent of committing homicide, but care must be taken that the resistance does not exceed the bounds of mere defence and prevention, for then the defender would himself become an aggressor.* The defender, moreover, must be in absolute danger of his life; a mere fear or false opinion of danger would not be sufficient. The self-defence must not only be a genuine act, that is, the spontaneous effort to save one's own life subjected to a sudden assault, but the law demands also that it be just and necessary.† No person could produce the plea of self-defence, when he might have escaped from the assault, or he might have put an end to it, but out of pride or humour, or some false

* Blackstone's Commentaries, vol. iii. p. 3.

† Hume on Crime, vol. i. p. 333.

notion of dishonour, chooses rather to stand and repel the violence than have recourse to such means as present themselves to him to avoid the combat. Thus, for instance, when a person is assaulted at mid-day in the street, when he may easily retire and find shelter among the bystanders or otherwise, if, instead of doing so, he deliberately wait to receive the onset, and will not give back, he cannot say that he was under the necessity to kill in order to save his life.

No plea of self-defence could be set up in case of duel. Wherever the mortal strife was matter of convention between the parties, and wherever there was a purpose to fight, there the survivor would be deemed guilty of murder. It would be the same when the parties have gone to the field, though in heat of blood, and on a sudden quarrel, and have fought fairly without either of them giving back or declining the strife. In all such cases there would be great criminality and guilt. Time was when duels or civil combats were allowed by common law in cases where proof could not be had; and so general was this method of terminating differences, that even ecclesiastics, priests and monks, were not excused from the same. For a long period subsequently, duelling became a fashionable mode of settling points of honour; but the unanimous voice of civilization declared duelling to be murder, and as such the survivor is now dealt with accordingly. Nevertheless, so inveterate has become the custom of duelling, and so wounding to common pride are the offences against the notions of honour, that duels are still perpetrated by persons otherwise moving in the higher ranks of society. This injurious custom also prevails among the students in the German universities, who occasionally fight duels with a species of broad-sword, the top of the head to the body of both combatants being carefully protected by strong leather guards, so as almost entirely to prevent the possibility of a fatal encounter. Let us hope that both it and the use of the foil, and the art of fencing, the relics of times when the pos-

session of a sword was a mark of gentility, may be for ever prohibited in all seminaries.

SECTION VII.—DEFENCE OF PROPERTY.

The right of self-defence to the shedding of blood has hitherto been considered as applied to cases where our own life, or that of our kindred, is placed in imminent danger by a sudden and unprovoked assault, and where the arm of the law could not be timely supplied, or no means of escape was within reach, circumstances in which the instincts of nature prompt, and the law of the land justifies us, in repelling force by force. Can we extend such an extreme right to the defence of our property? It has, indeed, been asserted, that it is essential for the interests of society that we should be at liberty, even by the most violent course, to resist those who come to pillage our goods. Nevertheless, the right of resistance unto death has been restricted by law to such cases where the attempt of invasion of our property is made in a forcible and felonious manner. For instance, although it may be a crime to pick a person's pocket of large sums of money, yet the aggrieved person would not be justified to stab instantly the pickpocket rather than seizing him. The trespass on our property must be felonious in itself, not arising from mistake. Suppose I am attacked on the highway at night time, in a solitary place, and robbed, it is quite plain that the crime can only be perpetrated by first subduing my person. I, therefore, have reason to dread all sorts of violence on refusal, and even delay to comply. Indeed, I am not sure that under any circumstances, I may not escape, besides, if once surrendered, my property is lost, with but little chance of recovery at any after time. Meeting in this manner, the assailant, I am therefore in a state of open warfare, in which I have no terms to keep with him, and am under no obligation in law, whatever com-

passion may suggest, to consult his safety, but may prevent and chastise his felony upon the spot.* So it would be with an housebreaker, when once he has entered the house, or has broken the safeguards of the building, he is considered as a felon, and a person so surprised would be justified, by law, in killing the thief. But in this as well as in the previous cases, it is always supposed that the inhabitant has exhausted all natural and gentler means for disappointing the invader from the prosecution of his purpose; and, moreover, it would make much difference whether the robbery was attempted, by night or by day; on the presumption that by night, the robber might defend himself by arms, and, therefore, a necessity may have arisen to kill him. The plea of self-defence in such a case is not the robbery of the property, but the fact, that in attempting to save our property we run the risk of our lives. In the United States, it has been recently decided that killing a person to prevent a mere trespass on property, whether the trespass could or could not be otherwise prevented, is murder.† Such are the cases in which the individual is considered to be under the protection of the Law of Nature; and allowed, under the demands of special circumstances, to resort even to the shedding of the blood of his aggressor.

SECTION VIII.—MEANS OF SELF-DEFENCE.

The present aspect of society differs materially from that of former times or in semi-barbarous states. A revolver, or a cutlass, a stiletto, a sword or a gun, were once the indispensable accompaniments of common life. Then every house was a castle, and every castle a fortress well armed and defended. The necessary consequence was, constant fear of aggression and numerous murders. When the passions are agitated, let us have arms ready at hand and

* Hume on Crimes, vol. i. p. 327.

† Kent's Commentaries, vol. i., 619, 6th ed.

they will be brought into practical use. Such was the state of California recently, when it suddenly became the resort of desperate adventurers. Where civilization extends its influence, the use of arms is relinquished by private individuals, and peace and security ensue. As it becomes unnecessary to be constantly armed for the defence of the person, so it is with respect to property. Although iron bars, patent locks, and iron safes are yet eagerly sought, slight observation will convince that such means of precaution are no longer deemed the best or only method for the security of property. Civilization has so far advanced that mutual confidence is not exceptional but general, and property is almost safely entrusted to the security and safeguard of the public eye. It is the same with individuals as with Sovereigns. Who would not rather see Queen Victoria reigning in the heart of her subjects, strong in her weakness, and perfectly secure amidst a retinue of unarmed attendants, rather than she should, like a Continental Sovereign, be always shielded by swords and bayonets, surrounded by soldiers, and residing in a fortress?

SECTION IX.—DIVINE LAW ON SELF-DEFENCE.

Hitherto we have confined our observations to the dictates of the Law of Nature. There is, however, another and clearer light by which we must try the argument of self-defence. Our natural instincts, moral sense, and reason are subjected to, or modified by, the express or Revealed Will of God. It has been said that revelation is but an authoritative publication of natural religion. We say it is more. It establishes sanctions far above all human institutions. It affords prospects of rewards far excelling, and punishments far exceeding all that human mind can conjecture. In fine, its great mission is to discover the frailties of human nature, and the extent to which the noblest of God's gifts, human reason, and the finest suscepti-

bility of the soul, the moral sense, have been laid prostrate to the influence of the instincts and passions. Had human nature remained untainted, we might, in all cases, have ascertained the will of God, by inquiring into what is agreeable to right reason, or conducive to what seem to us the highest good. But it is otherwise, and therefore the clear indications of the Divine will can only be elicited from Divine Revelation, whose design it is to raise man above the violent as well as the low and grovelling propensities of nature, and to superinduce some excellencies and perfections upon it, which no teaching, no example, and no warning could ever accomplish.

On the subject of self-defence, Revelation has much valuable testimony. The Mosaic law with reference to robbery said, "If a thief be found breaking up, and be smitten that he die, there shall no blood be shed for him. If the sun be risen upon him, there shall be blood shed for him; for he should make full restitution."* When, however, we seek the dictates of Revelation upon our duties towards our enemies, we find injunctions of a most searching character, and much at variance with our propensities. "Resist not evil."†—"Avenge not yourselves,"‡ are expressions the full value of which can only be appreciated under circumstances of trial and difficulty, but their import can scarcely be misunderstood. Their purpose is to subdue our instincts, and to introduce higher motives as a stimulus to our actions. It is thus, that where love of life and adherence to principle seem to come into conflict, it is said "Be not afraid of them that kill the body, and after that have no more that they can do; but fear him, which, after he hath killed, hath power to cast into hell."§ Few words are replete with more important meaning than "Resist not evil." It is a precept the fulfilment of which may often prove both arduous and costly. The expression, "Resist not evil," follows the propo-

* Exodus xxii. 2, 3.

† Matt. v. 39.

‡ Rom. xii. 19.

§ Luke xii. 4, 5.

sition:—"Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth, but I say unto you, that ye resist not evil."* Here is a plain warning against resisting personal injury, or evils committed by human beings, on human beings. Yet a question may be raised as to what extent is resistance here condemned? Resistance may be passive or active—physical or moral. Now resistance to any injury would imply a complete indemnity for any acts of violence or crime; yet a timely resistance to evil may be consistent with a salutary warning on our aggressors. Thus, "resist not evil," cannot be said to hinder us from restraining a maniac, or an insane, or an intoxicated person, or from administering any necessary correction; the kind of resistance condemned, is rather a vindictive spirit, an act of violence offered as a counterpart to any act of aggression. The maxim is directed against the use of physical or material force to destroy or impair the life, intellect, moral sentiment, or absolute welfare of those who may have committed evil against us. "Resist not evil," and its correlative verses have been explained as applying to smaller matters, to things of comparatively trivial interest, and to petty vindictiveness, but truly the spirit of the sentence is sufficiently explicit, and there seems to be nothing to justify such a limitation.

Doubtless, occasion might arise when practically to carry out the duty of non-resistance unto blood, we should be placed under the difficult position of either killing the aggressor, or consenting to our own destruction; but in this, as in other circumstances of perplexity and conflict, our duty is not to consider our own welfare, or what might seem to us the most reasonable course to pursue, but what is the express will of God,—what he enjoins and what he prohibits.

It has indeed, been advanced, that it is better that we should lose our own life, than that we should take the life of

* Matthew v. 38, 39.

our enemy, because he thus dying on the commission of heinous sin incurs the danger of damnation, and it is not consistent with justice to rid ourselves of a less evil by bringing a greater one on another man. This doctrine is combated by Puffendorf, on the following grounds; first, that in time of extreme danger the individual is not in a condition to reflect; second, that if the aggressor be not prepared to appear before the Heavenly Judge, it is by no means certain that the person assaulted is so prepared; and, thirdly, that we ought not to be more solicitous for the soul of the other man than he himself is. And, therefore, if he, neglecting this great concern, invade my life, ought I to pay so precious and irrecoverable a ransom for rescuing him from danger of incurring so sad a state? Questions such as these, however, are of too abstract a nature to admit of practical solution.

The obligation of exercising forbearance and charity is repeatedly expressed in the pages of Revelation. "If thou meet thine enemy's ox or his ass going astray, thou shalt surely bring it back to him again. If thou see the ass of him that hateth thee lying under his burden, and wouldest forbear to help him; thou shalt surely help with him."* "If thine enemy be hungry, give him bread to eat; and if he be thirsty, give him water to drink: For thou shalt heap coals of fire upon his head, and the Lord shall reward thee."† "Recompense to no man evil for evil.—Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is mine; I will repay, saith the Lord. Therefore, if thine enemy hunger, feed him; if he thirst, give him drink: for in so doing thou shalt heap coals of fire on his head. Be not overcome of evil, but overcome evil with good."‡ In all such maxims the Christian is not only commanded to abstain from those deeds of hostility, by which an injured man seeks to

* Exodus xxiii. 4, 5.

† Proverbs xxv. 21, 22.

‡ Romans xii. 17, 19—21.

retaliate upon his adversary, but rather to cultivate a spirit of charity or love which requites good for evil.*

What has been said with respect to the presumed Divine authority to kill our aggressor, when our own life is in danger, will obtain a greater force where such an act is committed simply for the safety of our property. Grotius justly said;—If our Lord Jesus Christ wishes that we should abandon our cloak to such as takes away our coat, and the Apostle enjoins that we should rather suffer ourselves to be defrauded, than that we should go to law with another, a combat not bloody in itself; how much more does he not teach us to forego things of greater importance rather than that we should kill a man made in the image of God, and descended from our common Father? When, then, we can save our property without exposing ourselves to the danger of committing homicide let it be; but otherwise we must rather sacrifice what is taken from us.—An exception has been made to this, when the property embezzled constitute our entire resources, but there is nothing to justify our resorting even in such cases, to acts of extreme violence.

SECTION X.—HELPING ONE ANOTHER.

Besides the duties which we owe to ourselves, there are others we owe to our friends such as arise from the duties of the affections which have already been delineated. Occasion may, however, present itself, when as in the case of self-defence, there may be a conflict between the duty of rescuing a friend from a terrible and impending evil, and the guilt of committing homicide. In this, as in other cases of extreme necessity, the instincts of nature seem to suggest the affording of instant help. In the case of Moses for instance, “when he spied an Egyptian smiting an Hebrew, one of his brethren, he looked this way and that way, and when he saw that there was no man, he slew the Egyptian, and hid him

* Chalmers on the Romans, vol. 4.

in the sand.* True, it is a duty to defend a friend or even a stranger exposed to wanton injury, but it is not less a duty to consider the amount of sacrifices such an act may impose. It is a question of serious importance whether we should afford help at the expense of our committing homicide, when possibly the person attacked might prefer to die himself rather than to kill the aggressor. Whilst it is incumbent upon us to defend our friends, to succour and cherish them, it does not follow that we are justified in staining our hands with blood on their account.

SECTION XI.—INSTITUTION OF CIVIL SOCIETY.

The best evidence of civilization is the development and perfection of civil society, of which Government is the symbol and basis. Such an organization, is at once the expression of a necessity in the human family, and an institution designed and sanctioned by the Divinity; hence it is, that whilst the rights and powers of the State are derived from its component members, the State itself acquires even higher authority, from its powers being stamped with the seal of the Supreme Lawgiver. Such being the foundation of Civil Society, and it being necessary that, whatever be the form of Government, there be in all cases a delegation of a portion of the rights of individuals to the State, for the purpose of obtaining its protection in the enjoyment of common rights and common privileges, what, may we ask, is the extent of its rights? Civil society has in its bosom many who are victims of passions and vice, some by whom moral duties are but imperfectly understood, or by whom they are wantonly trodden underfoot, and some also who, despising the sacred bonds of nature, are so brutal as to stain their hands and their garments with the blood of their fellow creatures. What is the limit of the coercive right against such, lodged in the hand of the State or its subordinate functionaries, the Magistrates?

* Exod. ii. 11, 12.

In any voluntary community expulsion is the ultimate penalty. Are there substantial reasons why, in a political community, this right should be exceeded? It is doubtless important to the liberty of the subject that the Government should have a right to inflict the highest penalty for the highest crime. Any limit to this right said Dr. Whewell, will cause that there will be some regions of human actions in which the lawless springs of action are not balanced; some province of human nature, in which the extreme powers of passion, appetite, anger, and the like are not governed by any efficient authority. Still the question is, what is the highest penalty for the highest crime, which a magistrate *has right* to inflict? A member of society commits murder, and thereby reaches the extreme of human criminality. Yet it does not become a necessity that the extreme punishment be death, nor does it follow that the authority of the State would suffer by instituting any other penalty than death for the expiation of such a crime? Moreover, whatever may be the excess of the crime, nothing will justify the State in taking away life, but a clear demonstrable authority both human and Divine. Such authority cannot be human, as no one can surrender what does not belong to him. No individual has a right over his own life, or over the lives of his fellow creatures. That right belongs exclusively to God.* Let it not be said that it rests on the nature of the thing. In the case of the highest penalty, destructive and irrevocable as it is, a higher authority need be shown than the nature of the thing. Anything short of a positive right will constitute the penalty of death,—an act of violence between man and man.

SECTION XII.—DIVINE SANCTION OF GOVERNMENT AND CIVIL MAGISTRATES.

We have already stated that the institution of government has the sanction of the Divinity. This is apparent from

* Hale's Pleas of the Crown.

numerous instances in the revealed will of God. "He removeth kings, and setteth up kings."* Judges and magistrates were honoured with the title of "gods."† "Judges and officers shalt thou make thee in all thy gates, which the Lord thy God giveth thee throughout thy tribes, and they shall judge the people with just judgment."‡ Obedience and respect to public authorities were also solemnly enjoined. "I exhort you, therefore, that first of all, supplications, prayers, intercessions, and giving of thanks be made for all men, for kings, and for all that are in authority, that we may lead a quiet and peaceable life in all godliness and honesty."§ "Let every soul be subject to the higher powers. For there is no power but of God; the powers that be are ordained of God. Whosoever therefore resisteth the power resisteth the ordinance of God."|| "Submit yourself to every ordinance of man for the Lord's sake, whether it be to the king as supreme, or unto governors, as unto them that are sent by him for the punishment of evil doers, and for the praise of them that do well."¶ "For he (the magistrate) is the minister of God to thee for good, but he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doeth evil."** Such are the sanctions of the magistrate's right to maintain, and to shield right and to punish wrong. Throughout these maxims we find a duty of subjection imposed, and a right to punish declared, whilst the sword of justice itself is the symbol of judgment.†† Yet we must search for other positive sanctions to determine the extent of the magistrate's right, as well as to set limits and modifications to the submission required. As a human institution civil government is subjected to all the abuses of inconstancy, excess, ignorance or fanaticism. Thus among

* Dan. ii. 21.

† Psalm lxxxii. 6.

‡ Deut. xvi. 18.

§ 1 Tim. ii. 1, 2.

|| Rom. xiii. 1, 2.

¶ 1 Peter ii. 13, 14.

** Rom. xiii. 4.

†† *μαχαίραν φορεῖν* denote the power of punishment in general, not merely the right over life and death, which is but the highest exercise of that power.—*Olshausen on the Romans*, p. 400.

the different kinds of crimes none have been more zealously and rigorously dealt with than those committed against religion, as if it was within the province of the magistrate to avenge the Divinity. It was this principle that armed the Inquisition with fire and faggot—that lighted the Smithfield bonfires with the leaves of the Bible—that led to the massacre of the Albigenses, and that brandished the dagger on St. Bartholomew's Eve.

On the other hand, what are the limitations of the duty of the subject with respect to obedience. It has been forcibly asked, Has the duty of obeying government no bounds? Is the human sovereign a god? Is his sovereignty absolute? If he command you to slay a parent must you obey? Have you no right to judge of his acts? Have you no self-direction? Is there no unchangeable right which the ruler cannot touch? Is there no higher standard than human law? Such are the questions suggested in the discussion of the right of the State to inflict Capital Punishment. How far precept, practice, and expediency may favour the exercise of such a right, will form the subject of the present inquiry.

SECTION XIII.—DIVINE LAW ON CAPITAL PUNISHMENT.

Our observations will acquire a greater perspicuity, by following historically such passages in the Scriptures as have reference to the punishment of murder. The earliest instance of aggression is exhibited in the murder of Abel. There in the very dawn of human life, two brothers, the fond objects of solicitude of forlorn parents, in the midst of friendly concert, fell into open contention, and murder ensued. The fratricide rose and God was before him. Sullenly Cain met God's searching questions, and seemed to draw forth the thunders of Divine vengeance. Instant death might have been anticipated, yet no such punishment was inflicted. Cursed he was declared from the earth which received his brother's blood, and a fugitive and a vagabond, he was to

* Channing.

carry with him the self-condemning penalty of his crime. But a stricken conscience dared not meet outraged humanity. "My punishment is greater than I can bear. Behold thou hast driven me out this day from the face of the earth, and from thy face shall I be hid, and I shall be a fugitive and a vagabond on the earth, and it shall come to pass that every one that findeth me shall slay me."* Not so, however. The penalty must be severe, yet life is to be spared. God said, "Therefore whosoever slayeth Cain, vengeance shall be taken on him seven-fold. And the Lord set a mark upon Cain lest any finding him should kill him."† Although it appears from such a precaution, that but for an express prohibition, the murderer's fear would infallibly have been realized, yet no law was then put in abeyance by sovereign prerogative. It was rather the first intimation that the instincts of nature are to be subjected to the express will of God, and a solemn occasion, moreover, in which the law of retaliation did not obtain Divine sanction. That this important event formed a precedent against a retributive vengeance of death, for the crime of murder, appears from the fact, that long after that time, Lamech, whose hands were stained in human blood, gloried in his impunity;‡ a degree of wantonness, certainly, the prelude of that violence and crime which soon after generally prevailed. It cannot, therefore, be established from such incidents that any right existed before the flood to take away life for murder, and as no magistracy had as yet been instituted, except perhaps a patriarchal or domestic rule, the prohibition was directed against private vengeance.

The next and most important event is the Noachic covenant, when after the display of a destructive judgment, the nucleus of a new generation was preserved, and some few cardinal rules were prescribed for the government of society. The expressions used by the Divinity on that occasion, have been variously rendered from the original, and will demand some philological research to obtain their exact meaning. The

* Gen. ix. 13, 14.

† Gen. iv. 15.

‡ Gen. iv. 23, 24.

verses in question run thus:—"And surely your blood of your lives will I require: at the hand of every beast will I require it, and at the hand of man; at the hand of every man's brother will I require the life of man. Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man."* Confining our observations to the first portion of the last verse, it is necessary here to advert to the original, as much is built upon its meaning. The text is שֹׁפֵךְ דַּם הָאָדָם בָּאָדָם. Whoso sheds man's blood among men, יִי בְּצֶלֶם אֱלֹהִים עָשָׂה אֹתוֹ הָאָדָם דָּמוֹ יִשָּׁפַךְ for in the image of God made he man. Where is here the presumed authority to avenge by blood the shedding of blood? In the English translation, the preposition ב is translated *by*, instead of *in*, or *among*, or *with*, as its proper meaning, and the sentence is divided before, instead of after אָדָם.† But to whom was the authority given? Magistrates there were none, inasmuch as the government then, and long after, continued to be patriarchal. Far less can it be said, that all persons would be authorized to avenge murder by killing the murderer. The text, therefore, cannot be interpreted as an energetic declaration, that wilful murder ought invariably to be punished by death, and that God will require it of

* Gen. ix. 5, 6.

† The French translation gives it "Qui aura répandu le sang de l'homme *dans* l'homme, son sang sera répandu." This is an exact rendering "*dans*," or "in," or "among" men.

The Spanish version is, "Todo el que derramare sangre humana sera derrama da su sangre." Here the words, "among men," is omitted leaving the sense as in the French.

The Italian follows more the English translation. "Il sangue di colui che spanderà il sangue dell' uomo, sarà sparso dall' uomo."

The German has, "Wer Menschen Blut vergießet, des Blut soll auch durch Menschen vergossen werden." Durch means "through," or "by."

The Vulgate has, "Quicumque effuderit humanum sanguinem, fudetur sanguis illius."

The Septuagint has, "Ὁ ἐκχέων αἷμα ἀνθρώπου, ἀπὸ τοῦ αἵματος αὐτοῦ ἐκχυθήσεται."

The English of Wycliffe,— "Whosoeure shedyth out manne's bloode, hys bloode schall be shedde."

those who suffer the murderer to escape; but, on the contrary, that God will require the blood shed under any circumstance whatever; warnings with which the Scripture is replete, such as "For evil doers shall be cut off;* or, "The wicked shall perish."† "Bloody and deceitful men shall not live out half their days."‡ Thus it is that the text may be considered not a command, but a warning or a prediction, and consequently this great so-called Divine warrant for capital punishment—the great charter of all civil magistrates, is nothing more than a denunciation against the taking away of human life.

The subject in question acquires greater weight when we pass to the Moral Law, which is of universal obligation. The Decalogue is the great standard of human duties,—it is the Divine Law of love. It has not the sanction of rewards and punishments annexed to it, yet they are involved in it. "In keeping of God's commandments there is great reward."§ The way of transgressors is hard.|| The Sixth Commandment says, "Thou shalt not kill."¶ It is a precept as broad as it is clear, neither does it admit of any limitation of its import, either in the animus, the occasion, or the instrument. It allows no justifiable homicide either, under command of the law, for the advancement of public justice, nor for the prevention of crimes in themselves capital. It countenances no distinction between justifiable, excusable or felonious homicide. Such distinctions are valuable in extenuating the circumstances of guilt, yet they do not justify a departure from the plain injunction against a meditated shedding of human blood; manslaughter being distinguishable from them all in this, that the malice,

* Psalm xxxvii. 9. † Psalm xxxvii. 20. ‡ Psalm lv. 23.

§ Psalm xix. 11. || Proverbs xiii. 15.

‡ Exod. xx. 13. The command לא תרצח does not mean properly, "Thou shalt not kill," which might be applied also against the destruction of animals nor, "Thou shalt do no murder," as given in the Old English version, and implying an act of malice, but "Thou shalt not commit homicide."

either expressed or implied, which is the very essence of murder, is there presumed to be totally wanting.

What difference can we perceive, for example, in the moral turpitude of a malefactor, an executioner, and a soldier? Each of these acts intentionally, and with premeditation, and the only difference is, that the executioner and the soldier, stain their own hands in the blood of their fellow-creatures upon command of the magistrate or of the general. A striking comparison has been made of the circumstances which attend the moral guilt of an assassin and a soldier.

“Take two men, the one an assassin, the other a soldier. They shall both waylay their victims; they shall both select the dark hour of midnight, they shall equally premeditate death, and they shall equally succeed. Now the assassin kills his victim, and becomes an object of abhorrence by becoming a murderer; the soldier also kills his victim, and is admired and rewarded for the deed. Yet as far as the act of killing a fellow-creature is concerned, they are equal; for both have taken human life, and hurried an immortal soul into eternity. What then constitutes the difference, where the act is precisely the same? We presume the reply will be, that the assassin acts on his own responsibility, but the soldier acts on the responsibility of the community that employs him; for, apart from this difference, other circumstances may even favour the assassin, since his intended victim may have deeply injured him, and he is planning to take his life from sheer revenge; while the soldier kills the man who has done him no wrong, whom he may never have seen before, and against whom he cannot bring the charge of the slightest provocation. He therefore perpetrates the same deed without even the low plea of revenge as a palliation.”

Several examples are afforded in the Scriptures, of persons, such as Simeon and Levi, Moses, and even David, who have at times transgressed the solemn command, “Thou shalt not

* “Thou shalt not kill,” by William Stokes.

kill," and yet were not made to suffer the punishment of death; nevertheless, by the Levitical Law, the penalty of death was inflicted, not only for murder, but for other crimes, such as adultery, incest and manslaughter. "He that smiteth a man so that he dies, shall be surely put to death."* "He that killeth any man shall surely be put to death."† "Ye shall take no satisfaction for the life of a murderer, which is guilty of death, but he shall be surely put to death."‡ Let it be remembered, however, that higher motives than the laying down of a model of civil government were the springs of this code of rigorous justice. Its object was to instil in the mind of the Israelites principles of justice and purity, with the severest sanctions, and to prepare them for the high mission they were to fulfil. Therefore it is that such laws cannot properly be made to apply to the government of society at large.

The penalty of death being at that time enforced in most states, as well as among the Romans, an occasion is taken in favour of the supposition that it has not been abolished under the Christian dispensation from the speech of Paul to Festus, "For if I be an offender, or have committed anything worthy of death, I refuse not to die."§ Grotius said, If God had designed that the penalty of death should no longer be used, Paul would not have justified himself in a manner calculated to confirm men in the opinion that such penalty was allowed as heretofore. But, in reply, it may be said that Paul referred to the Roman law; and certainly no evidence exists that the maxims of Christian love and forbearance had made such solid progress as to countenance the expectation, that actual changes in the legislation, not only of the Jews but of other countries also, would at that time, have been introduced in conformity with their teachings.

"Think not that I am come to destroy the law or the prophets, I am not come to destroy but to fulfil."|| — "Ye have

* Exod. xxi. 12.

† Lev. xxiv. 17.

‡ Num. xxxv. 31.

§ Acts xxv. 11.

|| Matth. v. 17.

heard that it was said by them of old time," or as Grotius renders it, 'to them of old time,' "thou shalt not kill, and whosoever shall kill shall be in danger of the judgment. But I say unto you, that whosoever is angry with his brother without a cause shall be in danger of the judgment."* Whilst a more searching interpretation was given to the laws relating to killing, adultery, divorce and perjury, nothing could be more apparent throughout Christ's saying, than a strong reprobation of a spirit of vengeance. He gave a greater force to the moral law, whilst he disarmed man of his vindictive spirit. Moreover, the sanctity of truth, the demands of righteousness, and the principles of purity are eternal and immutable. These Christ did not destroy; yet it is not thereby implied that the nature and extent of punishment should remain also unaltered.

Agreeably to the spirit of charity, which forms the chief distinctive of Christianity, the Christian Church afforded to criminals facilities for repentance and improvement. At its first institution the Church rejected murderers from communion, even at the hour of death, but in the following ages the term of their penance was moderated. The Council of Ancyra obliged them to do penance all their lives, and allowed them to be received at the hour of death; and other Canons reduced their penance to a certain term of years. St. Basil appointed the wilful murderer twenty years' penance; four years as "a mourner;" five years as "an hearer;" seven years as "a prostrator;" and four years as "a co-stander,"† or only to hear the prayers without

* Matth. v. 21, 22.

† The division of penitents into four classes was first made about the middle of the third century. The first, the "Flentes" or mourners, were rather candidates of penance than penitents, strictly speaking. Their station was in the church-porch; where they lay prostrate, begging the prayers of the faithful as they went in, and desiring to be admitted to do public penance in the church. When their petitions were thus accepted, they were said to be admitted to penance; or allowed to pass

receiving the communion. Such are the evidences which we may gather from Scripture. We shall now offer illustrations on the subject from ancient or contemporaneous history.

SECTION XIV.—CUSTOMS OF ANCIENT NATIONS WITH RESPECT
TO THE PUNISHMENT OF MURDER.

The progress of Criminal Jurisprudence, with respect to the punishment of the crime of murder, is worthy of consideration. In the early ages the punishment of such a crime was in no other hands than in those of the party injured, and the punishment was altogether arbitrary. By degrees the excesses of such punishment called for restraint. In Assyria the governor of the province named a judge, who determined what punishment the crime deserved. If death, the criminal was delivered to the accuser, who had thereby an opportunity to gratify his resentment to the full. In Athens, a person suspected of murder was first carried before the judge, and if found guilty was delivered to the relations of the deceased to be put to death, if they thought proper. But it was unlawful in them to put him to any torture, or to

through the several stages of discipline, which the Church appointed for the probation and trial of such as pretended real sorrow for any notorious offence, and the scandal given to the Church, by the commission of it. These were the "Hearers" who were allowed to stay and hear the Scriptures read and the sermon preached; but were obliged to depart before any of the common prayers began, with the rest of those catechumens and others who went by the general name of Hearers only. The "Kneelers," or prostrators, were so called, because they were allowed to stay and join in certain prayers particularly made for them whilst they were kneeling upon their knees. Their station was within the nave or body of the church, near unto the ambon or reading desk, where they received the bishop's imposition of hands and benedictions. The "Consistentes," or co-standers were so called from their having liberty to stand with the faithful at the altar, and join in the common prayer, and see the oblation offered, but yet they might neither make their own oblations nor partake of the eucharist with them.—*Bingham's Antiquities*, vol. vi.

force money from him. Compensation for crimes was for many ages very general in Europe.

We find traces of the same theory in Abyssinia, among the Negroes, on the Coast of Guinea, and among the blacks of Madagascar. In Greece the murderer was obliged to go into banishment one year, unless he could purchase liberty to remain at home, by paying a fine to the relations of the deceased. In China, and other Eastern countries, every facility was afforded to the murderer to leave the country, or otherwise, he was given over to the family of the murdered person; and among the Bedouin Arabs, the custom of taking blood-money for the redemption of murder still prevails.

The crime of murder, "*atrocissima crimina*," was regarded by the Roman law with extreme rigour, and neither pardon nor appeal was allowed after clear conviction. In the early epoch of Roman history, the Portian law forbade punishment of death upon a Roman citizen for any cause—a law which continued in operation for two centuries and a half, during which the republic flourished. But under the Roman emperors the punishment of death was revived, and the republic fell. By the law of Justinian, murderers were even excepted from the right of sheltering themselves by taking sanctuary in the church. After the fall of the Roman empire, all Law being subverted, private war for personal offences continued for a lengthened period to be a barrier to the proper organization of civil society. By degrees, however, the object of punishment ceased to be the private gratification of the injured party, or his immediate friends or family. Crime was recognized as an offence against the State, and met with punishment accordingly. Criminal Jurisprudence was thenceforth permanently established, and with it the penalty of death almost uniformly awarded for the crime of murder.

SECTION XV.—BRITISH CRIMINAL JURISPRUDENCE.

Among the numerous illustrations of the improvement of society, and of the milder tone which pervades all its institutions, none is more important than the altered character of our criminal jurisprudence. British laws have long been distinguished for their sanguinary nature. The highest penalty was inflicted on crimes of the smallest amount. To be seen for one month in the company of Egyptians—to cut down a cherry-tree in an orchard—to break down the mound of a fish-pond whereby any fish might escape, these were held as capital crimes; and as far down as 1837, capital punishment was inflicted for stealing to the value of five shillings in shops or warehouses, and to the value of forty shillings in a dwelling-house—for shoplifting, forgery, and house-breaking—horse, sheep, and cattle stealing, &c. So cruel a system of jurisprudence produced grievous results, and tended to exasperate society rather than to animate it to well-doing. The enormity of the penalty, and, in many cases, its infinitely disproportionate amount to the crime committed, caused also a general unwillingness to reveal crimes and to commence any prosecution, whilst, after the sentence of death was pronounced, only a small proportion of the sentences were ever executed. Thus in 1819, of 1,314 persons sentenced to death, only 108 were executed. Gradually, however, measures of reform were introduced, and by the energetic and persevering efforts of Sir S. Romilly, Sir James Mackintosh, and Mr. Ewart, the penalty of death was removed from all minor crimes, and limited almost exclusively to murder.* In times now gone by, the

* The penalty of death is still in force in England and Wales for murder, and attempts to murder, when accompanied with injuries dangerous to life; for unnatural offences; high treason; piracy, when murder is committed; burglary, when attended with violence to persons; robbery, when attended with cutting and wounding; arson of dwelling-houses or ships, when the lives of persons therein are endangered;

dissection of the bodies of murderers was a part of their peculiar punishment—their bodies were hung in chains—the heads of traitors were stuck upon poles at Temple Bar, and the country was studded with the gibbets of murderers and highwaymen. Happily, brutal exhibitions like these no more offend the public eye—civilization disowns them—justice is disgraced by them.

SECTION XVI.—PUNISHMENTS AND PUBLIC EXECUTIONS.

The principal objects of punishment are acknowledged to be correction and example, its ulterior ends the good or reform of the criminal, the benefit or security of the injured person, and the general welfare of society. Retribution or vengeance will scarcely be allowed to constitute the legitimate purposes of punishment. First, as to correction. It is essential for the stability of society that it should have laws for its government and its security; and it is also essential, that the majesty of the law be respected, and that its demands be vindicated. But whilst to the attainment of such ends there must be analogy and fitness between crime and punishment, it is also necessary that the laws which are intended to moderate the ferocity of mankind should not increase it by examples of barbarity. Is the penalty of death the highest of punishments for the highest of crimes? Doubtless, the prospect of death is a solemn monition, but to whom? Not to the criminal, who, in the spirit of hatred and revenge is *in the act* of seizing on his prey; not to him who, agitated by passion and im-

showing false signals to shipwrecks; and for setting fire to Her Majesty's ships of war. Practically, however, Capital punishment is not enforced, except in cases of deliberate murder. In the British Colonies, as late as 1849, capital punishment was awarded for many crimes for which it has been abolished in England, as for rape, robbery, &c. &c. In Scotland, also, the improvement of Criminal Jurisprudence has not kept pace with England, except that there also capital punishment is enforced only in cases of deliberate murder.

elled by criminal associates, plunges into the perpetration of murderous acts. There is a state of brutality which does not admit the introduction of fear, and during which the prospects of immediate death, or hard punishment for life, are the farthest from human thought. Let, however, the criminal be at liberty to make a desperate choice between them, and he will unhesitatingly prefer death to a continuation of misery. A lingering and indefinite punishment will at all times have a more corrective influence than the most certain punishment of death. Secondly, as to example. Has the punishment of death a salutary influence on Society? The question has been unanswerably discussed in the pages of *The Eclectic Review*, in the following pertinent remarks:—

“In the first place, public executions *teach homicide*. They address themselves to the organs of imitation; always a dangerous faculty to excite violently, and thus tend directly to the production of the very crime which they profess to punish. It is a singular fact, but an undeniable one, that there exists in the mind a desire and tendency to reproduce any scene or action which is vividly placed in the view. What we see done we always want to do again. Experience corroborates this assertion constantly. When a murder happens, other murders occur almost instantly. Suicides appear to beget suicides. Revolution in one state, is followed by revolutions in other states. While executions are going on *without* the walls of a prison, boys, and sometimes men, take to acting them *within*. It is a fact, that during the terrible September massacres of the great French Revolution, the prisoners who were waiting their turns to be destroyed, formed themselves into mock tribunals, and passed sentence in jest! Now, these remarkable circumstances can only be explained by supposing, that a too violent appeal to the faculty of imitation deranges that organ, throws it off its balance, and inclines it towards the very crime from which it is sought to drive it. That such is the result, facts prove, and therefore it

is impossible to exaggerate the danger which there is in performing a deed of sudden and violent homicide, either in the sight, or in the hearing of the community. Killing begets killing—murder propagates murder, to an incalculable extent.

“Secondly, public executions not only lead to further homicides through a frenzied faculty of imitation, but they tend directly to the same awful results by appealing specifically to the passions of vindictiveness or vengeance. A murderer is brought out before a depraved and brutal-minded mob. Instantly a shout of execration arises from the crowd, deafening the very heavens with the clamour. That shout has its origin in vindictiveness; and of that passion, murder is usually born. The man who once gives the rein to the feeling of vengeance is made *capable* of murder, give him but the opportunity, or let temptation be strong enough and he will commit it. Thus we find, that Connor sees Tapping hanged in the morning, and goes home and murders his mistress at night; and that Weeks, who, on many occasions, witnesses the execution of the vengeance of the law, takes vengeance on his master, and shoots him in broad daylight, in the open street. A remarkable proof, (if further proof were needed), of the soundness of our present argument, is to be found in the pregnant fact related by the Rev. T. Roberts, a minister of Bristol, that out of 167 persons condemned to death, 164 had been present at executions.

“Thirdly, executions preach the violability of human life, and assert the dangerous doctrine that homicide—wilful homicide—is justifiable. Now, that this must have a tendency to make life less sacred in the eyes of the people is evident. The law kills, upon the pretext that the culprits *deserve* killing. Well, what a government does, an individual will feel that *he* may do. Once let him believe that another man *deserves* death at his hands, and he will make the law his example for killing him. We must recollect that the mass of men are not casuists enough to understand the dis-

inction between governmental and individual right. They will naturally say, "If the state may kill a man who does it an injury, I may kill a man who injures me." This argument is no mere fancy, it is a truth proved by experience, how often we find a murderer saying: "Yes, I killed him, he deserved it; and I would do it again." In 1846, there was a man named Quennell, hanged at Horsemonger Lane. He defended the murder he had committed to the very last. His argument was, "The man did me wrong and I killed him for it." This logic he had learned from the law.

Such are the effects of public executions. What are their counterbalancing benefits? Have they diminished the number of murders, or of attempts at murder? Are we right in believing that their silent moral influence is such as to restrain greatly the uncontrolled indulgence of the passions, and to do so much better than any other system of punishment? The eminent criminalist Beccaria, held that the death of a criminal is a terrible, but momentary spectacle, and therefore a less efficacious method of deterring others, than the continual example of a man deprived of his liberty, condemned as a beast of burden, to repair by his labour the injury he has done to society. That the commission of crime is greatly affected by the severity or leniency of punishment, we much doubt. The causes of crime which we have already dissected, indicate that they proceed from inward emotions, or outward circumstances of an economical character, and that it is to the removal of these causes that we must look as the most efficacious remedy, much more than to any system of punishment. Thus, Ireland, after having undergone the most severe ordeal of calamities, and having been the scene of many nefarious aggressions and crimes, is now exhibiting the spectacle of a complete reaction. The following table, shows the number of committals during seven years, from 1848 to 1854, for the five offences connected with murder :*

* The population of Ireland, in 1841, was 8,175,124; and in 1851, 6,553,210. The number of committals in proportion to the population of

OFFENCES.	1848.	1849	1850.	1851.	1852.	1853	1854.
Murder	195	170	113	118	69	73	53
Attempts to Murder .	57	41	56	14	39	21	35
Shooting or Stabbing .	110	66	62	87	18	32	37
Solicitation to Murder	19	9	2	—	4	2	—
Conspiracy to Murder .	49	26	12	10	13	20	16
	430	312	245	229	143	148	141

All other crimes have diminished also in even higher proportions. Experience thus demonstrates, that whilst public executions are producing great moral injury to the masses of the people, they do not in themselves assist towards reducing the amount of crime; whilst, however stationary the punishment, the crimes themselves will diminish or increase in proportion as the economical condition of the people improves, or becomes worse.

Another consideration of the highest importance, and one sufficient to invest the question of capital punishment with the utmost solemnity, is the irrevocability of the sentence. Whatever wisdom may reside in our Judges, let it not be forgotten that they are fallible men. Not a few are the instances recorded of innocent men falling the victims of fatal error. What reparation can then be made? What atonement can be offered to him who suffers through it; or to the miserable parent who survives him? What can be more touching than the following instance of exquisite torture to parental feeling? It was related by the late Mr. O'Connell at a public meeting, "I defended three brothers of the name of *Cremming*, within the last ten years. They were indicted for murder. The evidence was most unsatisfactory; the Judge had a leaning in favour of the Crown prosecution, and he almost compelled the jury to convict them. I sat at my

Ireland, amount, in 1854, to 0.18 per cent., or 1 in every 556 inhabitants. The number of persons convicted in 1848, was 18206; and in 1854, 7051.

window as they passed by after sentence of death had been pronounced—there was a large military guard taking them back to the jail, positively forbidden to allow any communication to be had with the three unfortunate youths. But their mother was there, and she, armed in the strength of her affection, broke through the guard, which was strong enough to resist any male force. I saw her clasp her eldest son, who was but twenty-two years of age—I saw her hang on her second son, who was not twenty—I saw her faint, when she clung to the neck of her youngest boy, who was but eighteen ;—and I ask, what recompense could be made for such agony ? They were *executed*—and—they were *innocent* !”

Let it not be forgotten that forgiveness of offences is one of the most practical doctrines of Christianity. “If ye forgive men their trespasses, your heavenly Father will also forgive you : but if ye forgive not men their trespasses, neither will your Father forgive your trespasses.”* In all conditions of punishment it is all-important also to keep in mind that in some sense crime is the result of social evils, and the criminal is only the instrument of its execution ; and therefore the expiatory victim of society.

It has been seen that the proportion of persons committed for England and Wales, for the crime of murder and attempts to murder, is only as 0.00015 per cent. of the population, or 1 in 663,807 individuals, a most inconsiderable proportion to justify the maintaining of a sanguinary code, and thus administering an example of the violability of human life to an entire population. As individuals will resort to means of self-defence in proportion to the danger they incur, so the extent and intensity of the punishment, on the part of the State, must even, irrespective of all other considerations, be reduced to that extent which the enormity and frequency of the crime might justify.

Whatever argument we take in reference to a subject so

* Matthew vi. 14, 15.

important and so tragic, will only add to the evidences which prove beyond all dispute, that the punishment of death is ineffectual to repress crime, and rather promotes and encourages it; that it lowers the sacredness of human life in the eyes of the people by familiarizing them with scenes of blood, that it encourages vindictiveness and savage deeds, and that it is opposed to reason—to revealed religion, and to the eternal principles of justice.

CHAPTER III.

THE LAW OF NATIONS.

HITHERTO we have considered the natural law of individuals founded on the dictates of the moral sense and reason, and modified by the express will of God. We must now extend those principles "to States" in their collective capacities, and as moral persons. The Law of Nations is essentially the *Natural Law of States*, and comprises those rules of morality which modify the intercourse of commonwealths in peace, and prescribe limits to their hostility in war.

The Law of Nations is derived from three principal sources,—the Natural Law, the Divine or Revealed Law, and the Treaties or positive conventions of States. The first, the Natural Law is inherent to the very relations of States as of individuals. "The duties of men, of subjects, of princes, of law-givers, of magistrates, and of States," said Sir J. Mackintosh, "are all parts of one consistent system of universal morality." The second Revealed Law has been expressly acknowledged in international agreements; and, in the words of Dr. Phillimore, Christianity imparts a form and colour of its own to those elements of public justice and morality which it finds already existing in the system of jurisprudence. Thirdly, Treaties, or the express agreements between nations, adjust the international relations,—fix the boundaries of rights, and establish the basis of national obligations.

It is the purpose of the Law of Nations to lay down the conditions which determine the constitution of a State having a right to be recognized as such in the commonalty of nations,—to fix the character which each State may have acquired by its political organization,—and also, what are the circumstances under which such a state may be con-

sidered as extinct. It is within its province to specify those rights which naturally flow from the rights of independence and equality, such as the free choice of Government,—territorial inviolability,—self-preservation,—commerce,—right of acquisition,—jurisdiction over persons and things within, and by way of exception without her territory,—right of protecting subjects abroad,—right to recognition,—right to external marks of honour, and right to make treaties. But although it is called the *Law of Nations*, it does not possess the same binding force as the Municipal Law of a State. Its authority stands in the customs owned and acknowledged by most civilized nations, founded on equity, on the Law of Nature, and on Reason. The Law of Nations consists practically of a variety of principles and rules for the regulation of international intercourse, ascertained and laid down by eminent Philosophers and Legists, which are morally binding. But they cannot be enforced—and there is no executory tribunal to give effect to their injunctions. This essential want gives to International Law the character of scholastic theory rather than of a practical system of Law. Nevertheless, the sacred dictates of truth and of ethics have an intrinsic weight, which no Nation can ignore or wantonly disregard.

SECTION I.—STATE OF NATIONS.

Nations, like individuals, are living in a state of society; and as such they are stimulated by the same instincts, controlled by the same ethics, directed by the same reason, and governed by the same infallible dicta of Divine Revelation. The sole difference between individuals and States being that the latter in consenting to live in society, agree to preserve their individual sovereignty, and recognize no organized superior authority for their mutual protection and security.

In the exercise of the rights of sovereignty, questions of

momentous importance are often arising, as for example, it has often been found difficult to obtain an exact demarcation of the national possessions of a State, especially when they consist of water, such as rivers and lakes or seas, and when the rivers flow through more than one State. The treaty of Vienna, in 1815, has happily determined, that the navigation of all rivers, separating or traversing different States, shall be free, and thus that source of dispute has been of less frequent occurrence; yet the freedom of the navigation of the Danube is one of the questions at issue in the present contest between Russia and the Allied powers.

Nothing could be more important for the interest of all nations than that they should establish their mutual relations on a solid basis, so as to secure peace and harmony among themselves; and with the progress of Civilization, Commerce, Arts, Science, and Religion, the subjects of all states are enabled to appreciate the benefits and to seek the extension of mutual co-operation.

SECTION II.—DUTIES OF STATES TOWARDS EACH OTHER.

In its relation to other states, a nation, like an individual, is called upon to discharge duties of benevolence and humanity,—is bound to promote trade and commerce,—to afford protection to the subjects of other States,—to cultivate and observe justice, and otherwise contribute to the preservation and perfection of other States. These offices of friendship must, however, result from pure motives, be spontaneously offered, and in all cases with the open consent of the nation whom it purposes to benefit or to protect. In short, it is the duty of every nation not to consider itself as segregated from other States, having interests at variance with them, and as likely to derive benefit from their destruction or misfortunes, but in all respects, to regard its own interests as identical with theirs.

SECTION III.—TREATIES OF COMMERCE.

One of the first duties of Nations towards each other is to carry on mutual commerce. Providence has so distributed the fruits of the earth, and so manifold are our wants, that international exchanges as well as mutual intercourse have become indispensable. It is therefore incumbent on a nation to favour such trading, and so to give effect to what Providence has beneficently designed. But the plain dictates of natural law have been sadly misapprehended and ignored. Restrictions, impositions, and capricious prohibitions have, down to a late period, formed the basis of the commercial legislation of most countries, whilst under a mistaken notion of the balance of trade a commercial system was artificially erected producing essential detriment to the welfare of nations. Some of the principal regulations and guarantees towards the security of international commerce were early the subjects of regular Treaties between nations. At first, indeed, these treaties provided for the simple permission to foreign traders to come and sell their merchandize, or for certain exclusive advantages in favour of the ships or merchandize of their particular countries, but of late such commercial transactions between nations like those between individuals aim only at a fair principle of reciprocity. All the nations of the earth are now bound by a network of international Treaties of commerce, under whose protection the industries, products, and manufactures of all states are exchanged and circulated, and the merchants of all countries find wherever they travel abundant protection, friendship, and security. The principal Treaties of commerce existing between Great Britain and other powers are with Austria, 3rd July, 1838; China, 29th August, 1842; Denmark, 16th June, 1824; France, 26th July, 1826; Hans Towns, 29th September, 1825; Supplementary convention, 3rd August, 1841; Greece, 4th October,

1837; Guatemala, 20th February, 1849; Hanover, 22nd July, 1844; Mexico, 26th December, 1826; Netherlands, 27th October, 1837; Ditto respecting East Indies, 17th March, 1824; Persia, 28th October, 1841; Peru-Bolivian Confederation, 10th April, 1850; Portugal, 3rd July, 1842; Prussia, 2nd April, 1824; Prussia and German States, 2nd March, 1841; Rio de la Plata, 2nd February, 1825; Russia, 11th January, 1843; Sardinia, 6th September, 1841; Spain, 5th October, 1750; Sweden, 18th March, 1826; The Two Sicilies, 26th September, 1816, and 27th August, 1845; Turkey, 5th January, 1809; Tuscany, 5th August, 1847; United States, 3rd July, 1815, and 20th September, 1828; Uruguay, 26th August, 1842; Two Sicilies, 29th April, 1845.

SECTION IV.—TREATIES OF PEACE.

Although Treaties of Peace indicate an artificial rather than a natural state of union between Nations, we shall consider the obligation to enter into such Treaties as one of the duties consequent upon their living in a state of Society.

Nothing could be more humiliating than a review of the political state of Europe since the sixteenth century, exhibiting, as it does, the spectacle of numberless conventions, regulations, treaties, and capitulations entered into by all and each of the sovereign powers, and with protestations of most permanent peace and good will, which each in turn shamelessly broke and wantonly despised—agreements themselves, the origin of repeated wars and disturbances—accomplishing no end—frustrating the very purposes they were intended for—and leaving in all and every case, matters as unsettled, and questions as open, as if no judgment or experience was bestowed in the transaction, and as if nothing was expected to be attained, except temporary suspension of arms.

It is all important that the rights of nations should be defined and established with the solemnity of a public covenant, nevertheless, when we consider the time when such treaties have hitherto been generally concluded, viz: after long and disastrous wars; the parties by whom they were concluded—in many cases, military commanders or representatives of princes; and the utter disregard to nationalities,—countries having often been distributed among various powers or ceded to foreign princes, in compensation for other sacrifices—there is much reason to believe, that instead of removing causes of dispute, Treaties of peace have been the prolific sources of discontent and war. Moreover, nations like individuals, have not a stereotyped existence or interests. A constant progression characterizes the whole universe, and to contract bonds by which the development of the political life of nations shall be arrested, is to ignore the natural law of existence. Whilst at the same time countries, like individuals, being subject to extinction and death, all agreements by which the existence of a state shall be artificially maintained, can only be productive of injurious results.

All independent kingdoms are competent to contract a Treaty. Some doubt was raised whether any Treaty could be entered into between Christian nations and Infidels, but the question has been settled in the affirmative. Like a private contract, a treaty can only be valid when it contains the free reciprocal consent of both contracting parties. But although treaties concluded on the termination of a war often include conditions extorted by the victor, such a plea cannot be produced to dispute their invalidity. Equality is the substance of a private contract, and valid and valuable consideration its foundation, but neither inequality or disadvantage, nor lesion can invalidate a treaty.

It was usual to secure the confirmation of treaties by a solemn oath in the Cathedral churches, but such mode of confirmation is now discontinued. A more efficient

guarantee might be expected to be given for the sanctity and inviolability of such international covenants; as it is the open infraction of them that has given rise to numerous wars. The preamble of a Treaty between Nadir Shah, the Emperor of Persia, and the Sultan Mahmoud, Emperor of the Turks, in 1747, commences with the following remarkable expression, "Glory be to God, who among other things has rooted out all hatred and enmity from the bosom of these nations, and has commanded them *to keep their treaties inviolable*, as the ever-glorious Book saith: O ye who believe, keep your covenants."* The principal treaties now constituting the public Law of Nations, are the Treaty of Westphalia, of 1548; of Utrecht, of 1713; of Paris and Hubertsbourg of 1763; of Paris of 1814, and of Vienna of 1815. These concern Europe generally. By the Treaty of Versailles of 1783, the Republic of the United States of North America was recognised. Treaties are also existing between Russia and Persia, and Great Britain and Persia, with the Porte, &c.

SECTION V.—BALANCE OF POWER.

With a view to secure to all States the enjoyment of their respective rights, a diplomatic arrangement has been made, styled the "Balance of Power," whereby separate and sovereign States growing up beside each other, shall not interfere with the independence of any of the rest. An equilibrium of power existed among the several Italian States even prior to the Reformation; but it was not till the sixteenth and seventeenth centuries, that it became a ruling principle in the politics of Europe. When the house of Austria, governed by the ambitious Charles V., began to excite the apprehensions of the other States, France assumed the defence

* Philli. Intern. Law, vol ii. p. 57.

of the balance of power, and the wars of the Reformation commenced. Immediately after, France became herself the subject of suspicion by the marriage of Louis XIV. with the Infanta of Spain, and that again produced another war of twelve years' duration. The wars between Spain and Great Britain, and that of the Austrian succession, also originated on the ground of maintaining the balance of power, and it is to the same cause that we may ascribe the wars of the French revolution and those against Napoleon. Thus one of the principal means resorted to, for the purpose of securing peace, has itself been the cause of numerous wars.

Under the pretext, moreover, of checking every appearance of encroachment on the part of any of the powers, interventions and alliances have been resorted to, which have caused nations, otherwise having no interest in any political quarrels, to become parties in the arena of mutual contention. Since the close of the French wars in 1815 numerous interventions of the great Powers have taken place in the internal affairs of smaller states, with a view of preventing any changes which might be considered of a revolutionary character, and therefore as eventually unsafe to neighbouring states. Of such interventions we may name those of Austria, Russia, and Prussia in the internal affairs of Sardinia and Naples in 1820; of France in those of Spain in 1822; of Great Britain in the affairs of Portugal in 1826; of Great Britain, Russia, Prussia, and France in the Belgian revolution of 1830; of France, Great Britain, and Russia in the Greek revolution of 1828; of France and England in the affairs of Portugal and Spain in 1834; and of France and Great Britain in 1853, in the dispute between Russia and Turkey.

SECTION VI.—CAUSES OF WAR.

However perfect the basis of union which exists among all States; however strong the desire of peace; and however powerful the demands of civilization, commerce, and religion—nations, like individuals, are subjected to crimes, depredations, and aggressions. At one time the ambitious views of a general lead armies to the invasion of defenceless territories; at another political misrule causes a disruption of the bonds between the governor and the subjects, and corresponding changes in the relations with other States; and again, the spirit of conquest and aggrandisement leads a nation to seek the detriment or spoliation of neighbouring countries: whilst many other causes originate contests and wars, which no diplomacy has hitherto prevented, nor the most earnest promoter of peace has been able to avert.

The wars which agitated the world at its earliest epochs were wars of conquest and invasion; subsequently, wars sprung from intestine quarrels, from jealousy, and often from ludicrous motives. The names of Darius, Xerxes, Cyrus, Cæsar, Alexander, Hannibal, and Scipio are associated with scenes of slaughter and devastation, the products of sheer ambition, and of inordinate thirst of conquest. At a later period, religious wars acquired prominence, and since the sixteenth century, as it has already been seen, the principal wars have arisen from the desire of preserving the balance of power.

An attempt has been made to ascertain the main causes of the wars in which civilized nations have been engaged since the introduction of Christianity, and the result of the inquiry, including only wars of magnitude, numbering 286, was as follows:—

- 44 wars of ambition, to obtain extent of country.
- 22 wars of plunder, tribute, &c.
- 24 wars of retaliation or revenge.
- 8 wars to settle questions of honour or prerogative.
- 6 wars arising from disputed claims to some territory.
- 41 wars arising from disputed titles to crowns.
- 30 wars commenced under pretence of assisting an ally.
- 23 wars originating in jealousy of rival greatness.
- 5 wars which have grown out of commerce.
- 55 civil wars.
- 28 wars on account of Religion, including the Crusades against the Turks and heretics.

Without guaranteeing the minute accuracy of such a statement, it is valuable, as it affords a repertory of the main causes of war, a correct knowledge of which, as in the case of crimes, may pave the way for an efficient remedy.

SECTION VII.—THE LAW OF WARS.

As the commission of crime between individuals may be reduced into a law, so it is with respect to the perpetration of war between nations. But to establish the laws of the frequency of war, the inquiry ought to extend over a considerable period of political history. Wars are often preceded by internal Revolutions, and these are the result of social abuses accumulated year after year, without attempt at redress. The greater the accumulation, the more violent is the explosion. Crime and war are both incident to the existence of passions in man, and to the disorders which attend human society in all its institutions. In the case of crime, the offences are directed against individuals only; in the case of war, the offences are against nations; but although

the latter are of less frequency than the former, wars outweigh individual crimes in the extent of the calamity.

SECTION VIII.—SELF-DEFENCE OF STATES.

As experience shews that from a multitude of causes of almost impossible prevention, nations are often subjected to a state of war among themselves, and are thereby placed in a position of danger, it becomes the duty of each State to procure its own defence, and to provide for its own security. A complete organization of national defences was all-important during the feudal system, and the military service was then enjoined as an appendage to the grant of any portion of land. Yet a system, semi-civil and semi-military, was not found efficient in cases of severe emergency, and a permanent and effective force having become necessary, it gave rise to the introduction of standing armies, which were first in modern times established by Charles VII. of France. It is of this system that Montesquieu said, "A new disease has spread itself throughout Europe: it has taken hold of our princes and led them to maintain an inordinate number of troops. It has its paroxysms and becomes necessarily contagious; for as soon as one state augments its troops, the others forthwith augment theirs, so that they gain nothing by it but a common ruin. Each monarch keeps on foot as many armed men as he would have, if these people were in danger of being exterminated, and they call this rivalry of all against all—peace."

Besides the maintaining of large armies, fortifications of castles and cities, have been resorted to for self-defence, and at a very recent date the fortifications of Paris were completed, which consisted of a continuous wall embracing both banks of the Seine, and having detached forts, with an *enciente* of 15½ leagues, constructed at an expense of £5,000,000.

The right of self-preservation is usually exercised by levy-

ing troops, by maintaining a naval force, or by building fortifications. Nevertheless, this right may be limited by treaties or other special compacts, such as the Treaty of Utrecht, for the demolition of the fortifications of Dunkirk, or the Treaty of Paris for the demolition of the fortifications of Huningen. Whenever, on the other hand, the fortification of particular places,—the unusual levying of numerous forces—the formation of large armies—the march of troops, especially in the borders, of the state—or the unexpected movement of fleets, are such, as to have the appearance of offensive measures taken against any other state, they may justify such a nation in demanding explanation as to the object in view by them, in order to remove the suspicion thereby created.

These are the means which have been hitherto resorted to for attaining a sufficient security from foreign invasion. But when we take a retrospective view of the results of such a system of physical securities, artificially erected against each other; the immense amount of capital yearly wasted in the employment of large armies and navies; the economical results of so large a proportion of men in the spring of life, devoted to destructive, instead of productive pursuits; the moral evils of the barrack system; and the degradation of so large a portion of the population into an idle, passive, and wasteful life, there is much reason to apprehend that the very foundation of European armaments is deceitful. It will moreover be found that they fail in accomplishing the purposes for which they are intended, and therefore, the sooner Nations are able to disburden themselves of a charge so oppressive and so inefficient, and lay aside such artificial measures for a system of moral guarantees between all states, the sooner they will attain a solid basis for their internal and external security.

The following tabular statement, shews at a glance the armies, navies, debts, and their annual charge to different nations :—

COUNTRIES.	Date.	Army.	Navy.		Cost of Army and Navy.	Total Debt.	Debt per Head.		Annual Charge of Debt.
			Ships.	Guns.			£	s.	
Great Britain	1854	127,977	491	15,243	24,050,041	775,041,272	27	6	27,726,960
France . . .	1854	570,000	290	11,773	17,740,007	242,943,906	6	16	15,860,136
Austria . . .	1854	406,000	104	742	11,196,791	162,376,980	4	8	6,681,917
The United States . . .	1854	11,000	74	2,026	4,687,879	9,369,887	0	8	870,053
Russia . . .	1854	699,000	207	9,000	15,620,000	124,857,409	1	17	4,650,145
Prussia . . .	1854	129,117	54	288	4,205,106	32,680,675	1	18	1,625,842
Spain . . .	1850	99,489	90	.....	3,750,395	144,837,068	9	13	.....
Portugal . .	1854	29,014	50	717	896,105	19,122,800	5	9	659,008
Sardinia . .	1854	47,313	40	900	1,502,096	22,873,046	4	12	1,848,946
Turkey . . .	.....	178,680	70	2,636	3,340,908	5,000,000	...	...	81,818
Bavaria . . .	1854	70,500	...	.....	.....	14,117,000	3	0	.....
Belgium . . .	1854	73,998	...	.....	1,418,840	26,145,214	5	19	1,460,194
Baden . . .	1854	15,000	...	.....	.....	7,000,000	5	0	236,300
Bolivia . . .	1850	.....	...	.....	.....	1,195,832	0	14	.....
Brazil . . .	1853	22,540	42	301	.....	12,392,000	1	14	.....
Brunswick . .	1853	23,562	...	.....	.....	966,652	3	11	.....
Chili . . .	1851	2,661	7	88	.....	1,784,900	1	10	.....
Denmark proper . . .	1854	25,000	120	883	681,119	13,541,666	5	17	482,248
Ecuador . . .	1854	.....	...	.....	.....	3,817,000	4	15	.....
Frankfort . .	1854	1,024	...	.....	31,102	494,583	6	7	7,943
Grenada, New	1853	1,800	...	.....	.....	7,500,000	3	5	.....
Greece . . .	1853	9,848	15	86	.....	8,250,000	8	0	.....
Guatemala . .	1853	.....	...	.....	.....	594,520	1	3	.....
Hamburgh . .	1854	.....	...	.....	.....	3,988,056	19	17	.....
Hanover . . .	1854	23,687	...	.....	.....	5,705,011	3	3	152,011
Holland . . .	1854	57,959	88	2,000	1,337,916	100,082,362	29	15	3,017,457
India . . .	1852	289,529	...	.....	11,237,026	47,999,827	0	9	2,698,460
Mexico . . .	1854	26,553	...	.....	.....	16,296,550	2	5	.....
Nassau . . .	1854	6,285	...	.....	.....	850,000	2	0	.....
Oldenburgh .	1852	3,673	...	.....	.....	240,000	1	1	.....
Parma . . .	1854	2,773	...	.....	.....	592,000	1	3	.....
Peru . . .	1854	.....	...	.....	.....	9,953,833	7	5	.....
Roman States	1854	17,365	...	.....	375,719	17,152,000	5	13	99,815
Saxony . . .	1852	25,396	...	.....	290,012	6,417,228	3	0	294,902
Saxe-Weimar	1854	...	...	.....	.....	881,960	3	7	43,322
Saxe- Meinengen	1854	1,150	...	.....	.....	546,269	3	5	.....
Saxe- Altenburg	1854	1,474	...	.....	.....	354,724	2	6	.....
Saxe-Co- burg-Gotha	1853	1,860	...	.....	.....	289,657	1	18	.....
Sweden . . .	1850	48,718	330	660	534,451	450,000	0	3	.....
Switzerland .	1851	72,000	...	.....	84,086	160,000	0	2	.....
Tuscany . . .	1854	15,189	...	.....	256,352	.....	...	...	.....
Venezuela . .	1854	.....	...	.....	.....	3,789,000	3	0	.....
Wurtemberg	1854	8,107	...	.....	.....	4,035,309	2	6	206,007

The total number of soldiers in the armies of the 36 states, above included, is 3,151,241, and the total force of their naval armaments 2,072 ships, 47,343 men, whilst the number of

soldiers in the standing armies of Europe, including Turkey, is 2,797,158, the annual cost of such armies and navies being £103,236,671. The total amount of public debts, funded and unfunded, domestic and foreign, is £1,856,696,176, and the total interest and management of the public debts of twenty States is £68,703,484.*

SECTION IX.—DIVINE LAW ON SELF-DEFENCE OF STATES.

We have already considered to what extent, as individuals, we are justified in procuring our own preservation and in defending ourselves, our lives, and our property from lawless aggression. The same principles will also apply to States, with the important exception, that if Divine Law has altogether prohibited taking away the life of a single individual, even in self-defence, such prohibition will be immeasurably greater, where the destruction of life is so enormously multiplied. Nor are such considerations at all affected by the peculiar circumstances attending the self-defence of a State. True, an individual yielding implicit obedience to a Divine command, may at a time of danger rather abandon the extreme means of self-defence, than be himself the perpetrator of a foul deed against his aggressor, that is, he may prefer being the victim of a crime rather than becoming himself the criminal; and were he to succumb, it would still be the loss of one individual only. Whereas in the case of the State, the resolve to abandon the means of self-defence to the last extremity, might be followed by dire calamity. The existence of millions of human beings, unlimited resources, the interests of religion, and the condition of generations yet unborn, seem involved in resisting the aggression of a foreign usurper. It cannot, therefore, but be all-important that both the State and all members of society, be prepared to maintain intact the institutions which they enjoy, and which have contributed to their greatness in the scale of

* The Year Book of the Nations for 1855, by Elihu Burritt. Longman and Co.

nations. Nevertheless we must ask, what is the method of self-defence of States sanctioned by Divine Law? and it will be answered, *that alone* which obtains in the case of private individuals, viz. an invariable adherence to the principles of duty and justice, tempered by acts of forbearance, and mutual regard calculated to promote the common welfare. Herein consists true self-defence, which will prevent exactions, and neutralize a spirit of jealousy and enmity. Beyond this, and with respect to cases of extremity, we find "Except the Lord keep the city, the watchman waketh but in vain."* "Jerusalem shall be inhabited as towns without walls for the multitude of men and cattle therein: For I, saith the Lord, will be unto her a wall of fire round about."† "There is no king saved by the multitude of an host: a mighty man is not delivered by much strength. An horse is a vain thing for safety: neither shall he deliver any by his great strength."‡ "For I will not trust in my bow, neither shall my sword save me."§ "Some trust in chariots, and some in horses: but we will remember the name of the Lord our God."¶ Many examples moreover occur in the Scriptures, of nations having in vain trusted to physical means of self-defence, where it was the purpose of the Divinity that they should be destroyed.

SECTION X.—POLITICAL ALLIANCES OR LEAGUES.

The duty of helping one another, which is incumbent upon individuals, is rendered obligatory in the case of States, by Treaties of Alliance or League. Such Alliances may be contracted for the purposes of providing for the exercise of mutual civility and humanity, which, in the first era of society, were not felt to be a duty of universal obligation. Of such a character is the Treaty of friendship between Abraham and Abimelech.** Similar Treaties were also entered into among the Greeks; but the treaties of alliance formed between

* Psalm cxxvii. 1.

† Psalm xxxiii. 16, 17.

‡ Psalm xx. 7.

† Zech. ii. 4, 5.

§ Psalm xlv. 6.

** Genesis xxi. 24.

modern nations have in view their mutual assistance in case of danger. The ability to contract such treaties is in itself an act of sovereignty and independence. Thus when the German states were recognized as independent by the treaty of Westphalia, they were allowed to form alliances with foreign powers, each for its own preservation and security, provided such alliances be not turned against the Emperor and the empire, nor contrary to the public peace, or to that of Westphalia.* Unfortunately, however, political alliances, which in principle should flow from the spontaneous good will of the nations, are at present but political engines to combat the ambition of other states or princes, and are themselves the occasion of many wars. How far it is the duty of nations to succour the weak state exposed to the exactions of a powerful neighbour, is a question that must be tried by the same principle, as in the case of helping a friend in distress. We must consider the amount of sacrifice of moral duties and of physical resources which is thereby incurred, and moreover what are the chances of ultimate and substantial success.

SECTION XI.—DELEGATION TO THE SOVEREIGN OF THE
RIGHT OF MAKING WAR.

The right of making war is the prerogative of the governing power of a state. In the same way as individuals resign their right of self-defence, or of punishment of crime to the State or its magistrates; so nations agree that the power of making war or peace shall vest in the Crown. This prerogative of the Crown is modified in England, by rendering it necessary on the part of the Queen to obtain the consent of the Commons, for the means of making peace and war. It is recorded, that during the long reign of Edward III., that that Prince was obliged to call sixteen parliaments or councils, for the direct purpose of submitting his treaties, and the circumstances of war and peace, to their advice. With such

* Treaty of Westphalia, Art. 2.

limitation, however, the right of making war is the absolute prerogative of the State, and no one has a right to make war, except under the authority of the sovereign power. Yet although the principal agent in a war is the person interested in it, that is the State: the State or Sovereign is not the immediate actor in the war. He acts by the instrumentality of his subjects; because, in right of his Crown, he is the generalissimo of all sea or land forces whatever, and he alone can levy troops, equip fleets, build fortresses, and fill all the ports with them.*

Has the State the right to demand such a service? By the compact of society, every citizen is bound to serve and defend the State as far as he is capable, and no person is naturally exempt from the duty of taking up arms for such a purpose. Let it be however remembered, that whatever duty flows from the compact of society, there is still a higher authority to whom each individual is amenable. Where the State leaves it optional for the subject to serve in any war, he is at liberty to consult his own sense of right; but where the service demanded, is compulsory, and the subject believes such war or any war to be unjust, ought he to refuse his sanction and his support to the demand of the State? Obedience to God is a duty of prior obligation to obedience to man. Nothing can exonerate man from his personal and direct responsibility to his Creator. When Darius made a decree that whoever should ask a petition of any god or man for thirty days, save to the king, would be cast into a den of lions—Daniel, the minister and statesman, thought, that obedience to princes, never justified the violation of God's commands.† The supreme will of God ought to be the only rule of conduct, especially when the duty enjoined is one, the execution of which is certain to spread death and boundless suffering. Wellington said, "Men who have nice notions about religion have no business to be soldiers;" and it is easy to conceive that were the conviction of personal

* Stephen on the English Constitution, vol i. p. 567.

† Daniel vi.

responsibility to God to reign supreme in the heart of every soldier, and every citizen, the present system of warfare and military discipline could not be maintained.

SECTION XII.—ARTIFICIAL CAUSES OF WAR.

War has been pointedly described as the work, the element, or rather the sport and triumph of death, who glories not only in the extent of his conquests, but in the richness of his spoil. Its march is rapid, and its footsteps are indelible. Violence and crime—cold and hunger—disease and sufferings are its attendants. The gifts of a bounteous Providence—the produce of years of industry—the monuments of the noblest arts—and the results of centuries of progress and civilization, are all laid prostrate at the altar of this martial divinity.

In a judicial aspect, War is termed the highest trial of right. It is a resort to violence when all peaceful means to conciliate a quarrel have been exhausted. Yet cogent reasons have been deemed necessary to justify civilized nations in engaging in such a conflict under any circumstances, and this can only arise in the event of our having to recover our possessions or for self-defence. It is necessity alone, it is said, that can authorize it. How often, however, the motives assigned, are but the pretext to cover secret desires of self-aggrandisement! How often slight circumstances are seized to obtain unjustifiable ends!

Under the plea of self-defence, wars have been undertaken either to prevent the aggrandisement of a neighbouring power, or from jealousy or fear of our becoming afterwards the subject of its future aggressions. Doubtless, the experience of the means used by such a power to enlarge its possessions, may justify the endeavours to arrest its further conquests. For example, while the addition of one state after another to the North American Commonwealth, is but the result of a good government and increasing

prosperity, and could not by itself be lawfully opposed by other States, the growing extension of the empire of Russia by forcible means, and by the absorption of independent nations, may give just cause of complaint. The Law of Nations, however, does not recognise mere appearance of danger as a ground of interference. There must be a moral certainty, that the power we fear, not only can, but will attack us.

It would seem hardly necessary to point out the unlawfulness of entering into a war, for the simple object of incorporating in our territories other places, or states, which we may consider essential to our progress. Of such a character we may describe many of our Indian wars, where, under the necessity of maintaining a firm position, or with a view to increased communication and commerce, we sought the submission and obtained the ultimate dependence of the many Princes and people surrounding our possessions in that vast empire. Not less indefensible are the wars against Aborigines, and the forced possession of their lands and territories under pretext of discovery. It is true, that the earth was intended by God to supply the wants of the general family of mankind, and that owing to the constant increase of population, a necessity is imposed to discover new lands, and to occupy uninhabited districts; yet such a necessity cannot justify the expulsion of the original inhabitants. The almost total destruction of the aboriginal tribes of America and Australia, is a standing reproach to European cupidity and cruelty.*

* Tell me not of the absence of local attachment in the hearts of roving savages. Where is the record from which ye learned that nature was ever unfaithful to the law of her creation, and forgot to impress her offspring with regard for the spot where they first inhaled the breath of life? The monster that disregards the land of his nativity never yet beheld the light. The very eagle loves the nest in which it was hatched. In man, whether civilized or savage, the inborn passion is still stronger. The lawns, the woods, the hills and dales, even the rocks and the deserts, attach the soul to the place of her birth, like the

Equally unjustifiable and criminal were the constant exterminating aggressions on the Kaffirs and Hottentots at the Cape of Good Hope.

The atrocities committed against the aborigines met, unfortunately, with complete immunities at the hands of the Popes. As heathens and infidels, such nations were doomed to the yoke of the Christian discoverers; and with the presumed universal authority of the Popes over all lands, powers were granted by Nicholas V. in 1554, to the Crown

enchancements of Elysium. Nor do they quit their hold on her affections with the increase of years. On the contrary, the natal fire burns brighter as the shades of evening advance, and old age, rolling on with its grey hairs, feeds the flame, and makes her cling closer to objects consecrated by time, and endeared by a thousand recollections. Ye may vent your fury upon her,—ye may break her heart; but ye cannot turn the current of her feelings. She cannot turn them herself. Nothing can either force or allure her from the scenes of her childhood,—nothing can dissolve her attachment to her native soil but death. It came from the dust with her, and she can resign it only when her earthly tabernacle dissolves, and again mingles with its original element. Nor is it the character of the place that forms the inextinguishable regard. Like every other part of our constitution, it derives its origin from the author of our being. It is a fire kindled in us by the breath of nature the moment the soul springs into existence. It is nourished by association; it grows with our growth; it ripens with our age, and becomes stronger and stronger, the more it converses with surrounding objects. The highland cottager sees as many charms in the barren heath, the silent pine, the solitary glen, the wild crag, and the stupendous rock, as the royal tenant beholds in the peopled terrace, the galaxy of beauty, the monuments of art, and the towers of Windsor.

Think not, then, that the aboriginal inhabitants of Australia,—offspring of the same great parent with yourselves, and partakers of all the kindred feelings of a common humanity, can resign the mountains and the seas, the rivers and the lakes, the plains and the wilds of their uncradled infancy, and the habitations of their fathers for generations immemorial, to a foreign foe, without the bitterness of grief. What though the grass be their couch, and the tree of the forest their only shelter? Their blue mountains, and the country where they first beheld the sun, the moon, and the starry heavens, are as dear to them as your native land with all its natural and artificial beauties, its gilded spires and magnificent palaces, is to you.—*Journal of the Aborigines Society.*

of Portugal, for the possession of the empire of Guinea, with authority to subdue all the barbarous nations therein. It was on the same principle that Pope Alexander VI., in 1494, granted to the Crown of Spain all lands already, or hereafter discovered, lying to the west and south of the Azores, drawing a line from one pole to the other, a hundred leagues from the west of the Azores. Similar powers were also granted by Henry VII. of England, by patent, to John Cabot and his sons, who were authorized to seek out and discover all islands, regions, and provinces whatsoever, that may belong to heathens and infidels, and to subdue, occupy and possess these territories, as her vassals and lieutenants of war.

The supposed dictates of prophecy have also given rise to wars, or have assisted in persuading many, otherwise conscientious individuals, to regard unjust wars as the work of God. Doubtless every thing is instrumental in furthering the purposes of Divine Providence in the final economy of the universe, but more than ordinary caution need to be exercised in associating present events with biblical allusions. Nothing could be more uncertain, as to time and application, than the prophecies of the Old and New Testament. Such, however, is the religious anxiety, if not fanaticism, which prevails on such subjects, that scarcely a revolution, scarcely any great event happens in Europe, but is soon connected with and explained by some of the manifold, and often apparently conflicting statements of Scripture. Among the various texts devoted to such subjects, the prophecies in Ezekiel, Daniel, and the Apocalypse, furnish the widest field for speculation. A sketch of the interpretation given is interesting:—

The gold, silver, brass and iron powers of the image of Nebuchadnezzar, and the four beasts of the vision, are represented to mean the Babylonian, Persian, Grecian and Roman empires. The seven heads and ten horns, the various forms of government and kingdoms of this latter power. The first

beast of John, Romanism; and the second, or two-horned beast, is represented to be the Austro-Papacy. The present time is supposed to be passing under the sixth vial. The gold, silver and brass, of Nebuchadnezzar's image, have already been consummated; three of Daniel's beasts have departed; and John's seals have been opened, his trumpets have been sounded, and five of his vials have been poured. When the seventh seal shall be opened a scene of universal convulsion is expected to follow, until the period shall have a close, when the Jews shall be called into the religion of the Messiah, and Jews and Christians shall form one united host. Such is the purport of the views entertained with relation to the prophetic announcements on the Coming struggles among the nations of the earth.

Another cause of war has lately been raised, for the protection of co-religionists in foreign countries labouring under municipal restraints. Of such a character is the present war between Russia and Turkey; and although the question of the Sanctuaries may in effect have been but a pretext on the part of Russia to extend her influence over Turkey, it is much to be regretted that the religious sentiment of the Orthodox Greeks was outraged by the concessions made by the Porte to the Latin church under the pressure of the French Government. We need scarcely point out the criminality of making religious zeal the tool of political usurpations. It is enough that wars be the necessary results of the uncertain transactions of states. Let us not, at least, shield our ambition and our failings under the mantle of religion.

SECTION XIII.—DIVINE LAW ON WAR.

The inquiry we shall now institute as to the dictates of Divine Law on War, has received already much illustration in connection with the question of the right of killing, whether in self-defence, or for the purpose of punishment.

Besides however, the immeasurably greater importance which attaches to the question of war, having regard to the immense interests at stake, and to the number of lives endangered, there are some peculiar circumstances, both in the examples and precepts, derived from Divine Law, affecting the right of making war, which require special consideration. Pursuing, as in the former inquiry, the historical progress of scriptural evidence, the first traces of war are recorded to have taken place in the Patriarchal era.

There we find Abraham,* who was ennobled by the title of "The Friend of God," immediately on hearing that Lot, his nephew, was taken captive, renouncing his habitual calmness, arming suddenly his trained servants, and valorously subduing the four kings. And as if to give to this valorous act all the sanction of religion, Melchizedec, the priest of the Most High God, went to meet him after the battle, and blessed Abraham, and also God, who had delivered his enemies into his hands. That such an incident should be taken as an illustration of sincere piety, being consistent with a readiness to vindicate our right against the aggressors of our property, may easily be expected. We would, however, rather regard it as an instance of inconsistency of this otherwise most exemplary Patriarch, just as his conduct towards Hagar and the denial of his wife was reprehensible. It is perhaps not the least evidence of the truthfulness of Scripture narrative, that it does not palliate the faults of its most brilliant characters. Unfortunately we are more ready to take their failing as a plea for our own propensities than to ascertain the spirit in which such statements are recorded.

In the Patriarchal era also, for a private injury committed against the daughter of Jacob, a sudden assault was perpetrated by Simeon and Levi on the city of Shechem. "The sons of Jacob came upon the slain and spoiled the city. . . . They took their sheep, and their oxen, and their asses, and that which

* Genesis xlv. 14—16.

was in the city, and that which was in the field. And all their wealth, and all their little ones and their wives took they captive, and spoiled even all that was in the house.”* Well might the venerable Jacob on his death-bed have exclaimed, “Simeon and Levi are brethren : instruments of cruelty are in their habitations.”† Can these be held as a precedent to justify war?

But, perhaps, the most interesting evidence on the subject of war is the manner in which the Jewish people became the possessors of the Holy Land, a fact of singular importance, as it proceeded entirely by the direction and under the guidance of the Divinity.

The land of Canaan had been the subject of Divine promise to Abraham :—“Unto thy seed will I give this land.”‡ Its boundaries were settled. The grant was confirmed to Isaac and to Jacob ; and when the purposes of the Divinity were to be fulfilled, Moses was commissioned to bring the Israelites to the land of the Canaanites, and the Hittites, and the Amorites, and the Perizzites, and the Hivites, and the Jebusites.§ The liberation from Egypt was accomplished, and Moses was leading the people into the land of their heritage, when the Israelites were surprised by the sudden approach of the Amalekites. A battle immediately ensued, at Rephidim, and victory was obtained by super-human assistance. ||

Throughout their journeyings, the Israelites were harassed by various nations, and were under the necessity of fighting their way inch by inch till they arrived at their promised possessions, and under the command of Joshua, a soldier, the election of whom was singularly characteristic of the military nature of the expedition, Canaan was conquered. Nor were the Israelites allowed to enjoy the land undisturbed ; but they were to sustain numerous and continuous

* Gen. xxxiv. 26-29.

† Gen. xlix. 6.

‡ Gen. xii. 7 ; xiii. 15 ; xxvi. 3 ; xxviii. 13.

§ Exod. iii. 17.

|| Gen. xvii. 8-13.

wars, and in return they were enjoined to exercise no mercy towards their enemies, and to save alive nothing that breathed. It must be remembered, however, that the Jewish wars proceeded from the express command of God, and that whilst on the one hand they were made to accomplish the ultimate deliverance of God's people; on the other, they were intended for the punishment and destruction of idolatrous nations. With respect to these wars, considered as a divinely sanctioned example to defend the propriety and rectitude of warfare, in a just cause, it has been justly said, "That the Israelites were engaged in many contests with other nations; that these contests were often of a very destructive character: and that they were carried forward on the part of the Israelites under the direct sanction, and often in consequence of the clear command of the Almighty, are points which no one who is accustomed to peruse the history of the Old Testament can pretend to deny. But we are not to forget, that the wars of the Israelites differed from wars in general (even from those of the least exceptional character in point of justice) in certain very important and striking particulars. *That very divine sanction* which is pleaded as giving to the example of that people an authority, of which other nations may still avail themselves in the maintenance of a similar practice, *did, in fact, distinguish their wars from all those in which any other is known to have been ever engaged.* They were undertaken in pursuance of the express command of the Supreme Governor of mankind; and they were directed to the accomplishment of certain revealed designs of his especial providence."*

It has been asked with much solemnity, are we to suppose that God would at any time have commanded what is in itself immoral and unrighteous? Here we find God expressly enjoining the Israelites to make war and to destroy their enemies. If war be in itself criminal, would God have so ordered it? Questions like these

* From Joseph Gurney's "Essay on War."

are of impossible solution. Shall we ask the Author of the Universe, "What doest Thou?" The introduction of evil, with all its consequent miseries, is inexplicable to us. Were we to consider all that God has at various times ordered or permitted, as allowable to ourselves, we should find much that is altogether of impossible explanation. The laws of war, by which He ordained the Israelites to destroy all property and lives, including women and children, are now discarded by our Legists, and set together with the customs of barbarism. All that can be said in such discussions is, that God is thus pleased to bring judgment upon Nations by the instrumentality of other nations; yet we find in another place the solemn statement, "It is impossible but that offences will come, but woe unto them through whom they come."*

After centuries of strange emergencies, of miraculous triumphs, of defeats, and of persecutions which befell the Jewish people, the time of the new economy arrived, and its approach was intimated by the appearance of a stern, austere, and uncompromising preacher. "The voice of one crying in the wilderness, Prepare ye the way of the Lord, make his paths straight."† To him all classes went, and on their asking, Master, what shall we do? they were all answered as best befitted them, and each received a pointed lesson. To some, he taught liberality and sympathy; to others, he recommended righteousness and justice; and to others, moderation and contentment. Amongst these there were soldiers also, and they having put the same question, the answer was, "Do violence to no man, neither accuse any falsely, and be content with your wages."‡ An argument is sought to be drawn from such incident, to prove that the military profession was not reprobated, by this otherwise scrupulous preacher. Had John conceived, it is said, that such profession was unbecoming a Christian, he would have counselled

* Luke xvii. 1.

† Luke iii. 4.

‡ Luke iii. 14.

them to abandon it immediately. Is there not in his silence, at least, an evidence that he did not conceive the bearing of arms of itself wicked? It is evident, however, that John did not deem it expedient to interfere with the several professions of his attendants. As Roman soldiers he might have embraced the opportunity of condemning their idolatry or polygamy, or other vices of the Roman camp; but the purpose of John was better attained by limiting his rebukes against the most outrageous sins, or crimes committed by each class. The violence with which the soldiers were reproached was, doubtless, the robbery and extortion practised by them against the inhabitants. It has indeed been stated, that although John the Baptist was engaged in proclaiming the approach of the Christian dispensation—the kingdom of heaven—he did not himself appertain to that kingdom, and that his moral system was in accordance with existing institutions.* Grotius asserts that there was no practical difference between the preaching of John and of Christ; the latter having only expanded and developed what John had but vaguely announced. In all respects the answer is strictly neutral, and can scarcely be produced as giving any real countenance to the lawfulness of war.

It is singular, that whilst the prior economy presents so many examples of wars undertaken by the express command of God, no distinct prohibition of war by name is found in the New Testament. Hence it is asserted, that if Christ intended to introduce such a change in the then usual mode of settling quarrels between states, he would have given specific intimation of it. But war is one of the many crimes, such as duelling, suicide, polygamy and slavery, which were never distinctly condemned in the letter, though abundant in the spirit.

The true characteristics of the new dispensation were manifested in the melodious songs and utterances with which it was ushered in. Whilst angelic voices were still echoing

* Mark i. 2; Luke i. 77; John i. 9.

the anthem over the fields of Bethlehem ; “Glory to God in the highest ; on earth peace, and good will to all men,” all around was peace—

“No war, or battle’s sound,
Was heard the world around :
The idle spear and shield were high up-hung ;
The hooked chariot stood
Unstain’d with hostile blood ;
The trumpet spake not to the armed throng ;
And kings sat still with awful eye,
As if they surely knew their sov’rign Lord was by.”*

The first accents which fell from the benign Messenger were declarations of the beatitude of those who had attained various degrees of virtue and benevolence. Prominent among these are, the poor in spirit—the mourners—the meek—the seekers of righteousness—the merciful—the pure in heart—and the peace-makers. Each class has its tribute of admiration. There also, in that majestic discourse, Christians are characterized as “the salt of the earth,”—“the light of the world,” &c. A new Code of Morals is thereafter proclaimed, and that forms at once the standard by which the Christian life is to be regulated, and the law which a Christian is to obey. This remarkable passage requires here a careful examination:—“Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth : But I say unto you, That ye resist not evil : but whosoever shall smite thee on thy right cheek, turn to him the other also. And if any man will sue thee at the law, and take away thy coat, let him have thy-cloke also. And whosoever shall compel thee to go a mile, go with him twain. Give to him that asketh thee, and from him that would borrow of thee turn not thou away. Ye have heard that it hath been said, Thou shalt love thy neighbour, and hate thine enemy : But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you ; That ye may be the children of your Father which is in heaven :

* MILTON, *The Nativity*.

for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust."* Doubtless a literal explanation of such sayings seems to lead to extreme consequences. Yet they were not intended as hyperboles. The whole sermon is a body of moral practical duties for daily life. It has been attempted to explain such verses by applying them to circumstances, in which to resent the injury would only cause greater inconvenience. But whatever limitations may arbitrarily be set upon the meaning of the terms, they cannot be otherwise understood than as injunctions to cultivate mildness of temper, a forbearing disposition, and a liberal spirit. Can a man thoroughly imbued with these precepts look without horror to the cruelties, the bloodshedding and crimes attending war? Neither can it be said that such injunctions apply to individuals and not to nations. Whether we regard a nation in its collective capacity as a moral person or as a body of individuals, the principle will universally prevail, that whatever is wrong and unjust in an individual is equally wrong and unjust in a nation.

The following is a memorable episode in the ministry of Christ. At the commencement of his mission, when he instructed his disciples to go forth to preach his doctrines, he gave them power to overcome many obstacles which might hinder their entrance into the hearts of men; yet he instructed them to take nothing for their journey, neither staves nor scrip, neither brass, neither money, not even two coats a-piece.† When, however, the consummation of his mediatorial sacrifice was drawing nigh, he called his disciples and said, "When I sent you without purse, and scrip, and shoes, lacked ye anything? And they said, Nothing. Then said he unto them, But now he that hath a purse let him take it, and likewise his scrip; and he that hath no sword, let him sell his garment and buy one."‡ A total change was seemingly to occur in the system hitherto pursued by Christ. For endurance he now seemed to substitute resistance. The disciples

* Matt. v. 38—45.

† Matt. x. 9, 10.

‡ Luke xxii. 35, 36.

were thus exhorted to arm themselves, and to defend Christ and his doctrines at the point of the sword. Readily the carnal heart of the Apostles answered Christ's appeal: "Lord, behold here are two swords."* But the Apostles present were twelve; yet he said unto them, "It is enough."† They misunderstood his meaning, and he put an end to his observations. An opportunity soon presented itself to show them whether he meant that they should resort to physical means of self-protection.

The Roman soldiers, led on by Judas, came and laid hands on their Divine Master, when Peter, habitually bold and energetic, immediately drew his sword for the defence of his master, himself, and his friends. But how mistaken he was:—"Thinkest thou that I cannot now pray to my Father, and he shall presently give me more than twelve legions of angels?"‡ Christ never looked to his disciples for protection. It was not in the sword that he trusted. But how beautifully he drew from that very circumstance a most important lesson for the government of man,—“Put up again thy sword into his place, for all they that take the sword shall perish with the sword.”§ It cannot be said that Christ reproved Peter, simply because he drew his sword rashly against the officers of justice. The intent of Christ was to teach Peter that it was not his intention to resort to the sword—that if it had so been, he might have power to call for angels—and, moreover, that the use of the sword was guilty in the sight of God.

On another occasion, Christ said, "Think not that I am come to send peace on earth. I came not to send peace, but a sword. I am come to set a man at variance against his father, and the daughter against her mother, and the daughter-in-law against her mother-in-law."|| The meaning of this statement is obvious. It is a premonitory remark on the religious dissensions that would necessarily follow from the introduc-

* Luke xxii. 38.

† Luke xxii. 38.

‡ Matt. xxvi. 43.

§ Matt. xxvi. 52.

|| Matt. x. 34, 35.

tion of his doctrines amongst Jews and Pagans. It cannot be construed to imply in the slightest degree any permission of war.

Paul, in his Epistle to the Corinthians, said, "For though we walk in the flesh, we do not war after the flesh. For the weapons of our warfare are not carnal, but mighty through God to the pulling down of strongholds."* This does not mean that Paul was weak in material strength, but is a figurative expression, that Christianity as a spiritual power was to be resistless against sin and wickedness. Such passages afford no argument either in favour or against wars. Of exactly the same import are the other exhortations to the Ephesians, "Put on the whole armour of God, that ye may be able to stand against the wiles of the devil. For we wrestle not against flesh and blood, but against principalities, powers,"† &c. Doubtless, this is a war in which men individually, and the Church collectively, are constantly engaged against superstition, wickedness, and infidelity.

It is stated that, from the Sacred Scriptures, it does not appear that the profession of arms has been made a subject of reproach to the first Christian converts. The example of Cornelius‡ is prominently brought forward. Here is a Centurion, a devout man, and one that fears God with all his house, which gave much alms to the people, and prayed to God always. He had received the Holy Spirit, and was baptised in the name of the Lord; yet not a word appears to indicate that he had renounced the profession of a soldier, nor that any exhortation had been made to him to that effect by Peter. This appears the more remarkable, inasmuch as in other circumstances many that believed came and confessed, and showed their deeds, and many of them which used curious arts brought their books together and burned them before all men. But if we do not find that Cornelius abandoned his profession, neither can it be proved that he continued in it. It is only implied. And even, on the assumption that he

* 2 Cor. x. 4.

† Ephes. vi. 11.

‡ Acts x.

did, it would not prove that it was right, but that perhaps, converted as he was, he did not at that time see that his profession, especially in time of peace, was incongruous with Christian duties. Peter, following the example of his Master, interfered not with Cornelius' avocations. An essential difference existed between the results of the conversion of Cornelius and that of the exorcists and idolaters, inasmuch as these necessarily were called at once to destroy their idols.

Of a similar nature is the argument derived from the account of the conversion of Sergius Paulus, a Deputy of the country in Paphos, (a civil governor, however)* of whom we do not learn that he abandoned his post in consequence of his reception of Christianity. Such cases are but demonstrations of the power of Divine truth, that it exercised its influence among men of all classes, the highest as well as the lowest, governors and magistrates, as well as the masses of the people. There are, indeed, other striking instances of Centurions giving evidence of much faith and piety. The appeal to Christ by one of them to come and heal his servant is peculiarly touching, "Speak the word only, and my servant shall be healed."† Well might Jesus say, "I have not found so great faith, no, not in Israel." But this commendation was surely not directed to the profession of arms. The individual in question revealed much faith, and received deserving praise. As much might be said of Rahab,‡ the harlot, who was honoured to be put in the catalogue of those distinguished for their faith. No reference is thereby made to her otherwise guilty life.

These instances are, moreover, illustrations of inconsistencies, often unaccountable in characters, otherwise bright with piety and goodness. Do we not experience that many institutions, such as slavery, duelling, &c., now held criminal, were but recently regarded as quite consistent with Divine Law? Do we not find some sections of the Christian church in America, even at the present day, refusing to denounce slavery, and many of

* Acts xiii. 7.

† Matt. viii. 8.

‡ Heb. xi. 31.

its ministers, 23,000 in number, being directly implicated in holding as chattels 660,000 human beings? The precepts of true religion have not yet been unfolded in their majestic completeness to our dim eyes, and we can only look for a brighter scene of development as we proceed, from the narrow chambers of our present pilgrimage to the boundless expanse of eternity.

The analogy between the right granted to magistrates for the punishment of evil-doers and that of punishing an aggressor, is produced as a Divine sanction of war. It is asked, "suppose we are in danger of a threatened invasion, what is to be done? There is an officer of the realm who bears the sword, whose function is to repress the evil, whose object and chief desire it must be, as the chief officer of the realm, to secure the peaceful possession of his goods to every peaceful, loyal, and obedient subject. Very well, if that ruler is to defend the citizen within, assailed within, is he forbidden to wield the sword against the invader that attacks us from without? If this officer that bears the sword is to put down the obscure disturber of the peace in a little village, is he to connive at the disturber of a nation's calm, because he has an imperial army behind him? If such an one, bearing the sword, would call out the military to put down a domestic mob, surely it is his duty to call out the military to prevent the invasion of an imperial robber. If he forcibly put down the disturber of a town, surely he is bound forcibly to put down the enslaver and the invader of an empire."* The inference here derived would be just, except that it is wanting in the premises. If we were correct in the examination of the extent of the magistrate's rights,† no authority can be found, either human or divine, for his shedding blood under any circumstances whatever; his authority extends only to the infliction of punishment proportionate to the crime, having always in view the good or reform of the

* Lecture on War, by Dr. Cumming. † See Chapter II. sect. xi.

criminal. Let this be admitted as proved, and the analogy is at once destroyed. If there be no authority to punish by death the criminal at home, none can exist for punishing by death the criminal from abroad. Under the plea of punishment, war is therefore indefensible. Moreover, if war be regarded as a punishment, nothing could be in practice more unfair or unjust. The purpose of Criminal law is to weigh against the criminal himself, who is individually to bear the burden of his own crime and misdeed. Can it be so said with respect to war? Who is the author of the supposed crime? Not the soldiers, who act under command, and in many cases, unfortunately, having sympathies opposed to the cause they defend. Nor the unoffending citizens, who are themselves frequently the victims of quarrels raised by the State, in the administration of which they may have no voice. Nevertheless, by war, these are made liable to punishment for the vicarious commission of crime. The whole idea of rendering States the subjects of criminal law has been abandoned by modern jurists, as founded on a mistake, arising from an indistinct and inaccurate conception of the true character of a State, and from confounding the individual rulers or ministers with that of the nation which they govern and represent.*

Regarded as the action of self-defence, the analogy alluded to is exhibited in the following light: "War," it is said, "is not our aim, it is not our object. It is an incidental evil that emerges in the discharge of our duty in the putting down the wrong-doer and in the protection of him that doeth right. A robber breaks into your house to steal your property, and if it suit his convenience, to take away your life; you seize the nearest weapon of defence; in the course of collision the robber is killed and you are wounded. Nobody can say that you provoked the collision, or that you were anxious to wound yourself. You had one definite object—to protect your

* Phillimore, *International Law*, vol. i. p. 6.

property, and to paralyze the hand that would plunder it. Or suppose again, if, instead of defending yourself you sound an alarm, the police are called in, the consequence of their arrival is that the robber is put to death, and by his resistance the police are wounded. It cannot be said that they chose the conflict, or provoked it, or that you have created a needless collision; you were discharging a definite duty, and the death of the robber is an incidental event that has emerged in your fulfilment of the duty that devolved upon you.

“Now what is a Nation but a vast and glorious home? What is an army but a national instead of a municipal police? And if you employ the municipal police to protect your home, this single home, from the robber, why not employ the great national police, which is the army, to defend the great common home from him that would rob it of its precious things, and plunder it of all that is its bulwark, its ornament, and its defence.”* Such a reasoning supposes, in the first instance, the right in the aggrieved person to seize the nearest weapon of defence and to strike. This right, as we have already seen, is conceded by the Law of Nature,† but is not sanctioned by Divine Law, inasmuch as it is opposed to those maxims of self-denial so repeatedly urged as a duty, and to those evidences of Christian character so beautifully illustrated in Scripture.‡ Nor would any difference exist in the criminality of the act by committing it through the instrumentality of another, whether he be a policeman or a soldier. But can it be said that war is only an incidental evil? Is there no preparation for war? Is it not rather a premeditated and long anticipated emergency? What are the drilling of armies? the building of navies? the manufacture of fire-arms, but so many acts establishing the criminality of war, just the same as a duel or murder?

* Lectures on War, by Dr. Cumming.

† See Chapter II. sect. vi.

‡ See Chapter II. sect. viii.

SECTION XIV.—PROPHETIC ANNOUNCEMENTS.

Consistently with that state of progression which marks every thing around us, the sacred Scriptures are full of allusions to a glorious futurity, the brightest characteristic of which is universal peace. "He maketh war to cease unto the end of the earth; he breaketh the bow, and cutteth the spear in sunder; he burneth the chariot in the fire."* "They shall beat their swords into plowshares, and their spears into pruning-hooks: nation shall not lift up sword against nation, neither shall they learn war any more."† "And I will break the bow, and the sword, and the battle out of the earth, and will make them to lie down safely."‡ Doubtless these predictions indicate such an era of perfection, when, with the complete subdual of the passions, with our affections elevated, and with our vision enlarged, we shall not experience those evils which at present oppress society. So long as men continue to be the victims of grovelling propensities, war is but a necessary result. "From whence come wars and fightings among you? come they not hence, even of your lusts that war in your members? Ye lust and have not: ye kill, and desire to have, and cannot obtain: ye fight and war, yet ye have not, because ye ask not. Ye ask, and receive not, because ye ask amiss, that ye may consume it upon your lusts."§ War is, moreover, one of the punishments which God often sends to fulfil his own inscrutable judgments. "And I will send the sword, the famine, and the pestilence among them, till they be consumed from off the land that I gave unto them and to their fathers."||—"Or if I bring a sword upon that land, and say, Sword, go through the land; so that I cut off man and beast from it."¶

Whilst such are the barriers that intercept the great reno-

* Psalm xlv. 9.

† Isaiah ii. 4.

‡ Hosea ii. 18.

§ James iv. 1—3.

|| Jeremiah xxiv. 10.

¶ Ezekiel xiv. 17.

vation of the world, certain it is, that the direct tendencies of Christianity are to produce this felicitous issue, and that wherever pure religion exercises a supreme influence, there wickedness and vice cease. Yet on the question, whether it befits such as are under the sacred influence of Divine love, to be agents in the scenes of destruction, caused by war, it is asserted that the time is not yet come for thus enjoying perfect peace, and, therefore, Christians may take part in those processes which seem good to a great God to ordain—which is tantamount to saying, “I experience the power of Christianity as it reveals to me the joy of a future state—I know the value of the soul, and its eternal destinies—I recognize in every man the image of my God—a fellow-being in this scene of probation—I feel the force of the injunction, “Love one another,” and of all the precepts of love and forbearance which Christ my Saviour taught me; nevertheless, I am in this world,—I have around me many, intent to injure me,—I have my being and my property to protect,—I am a member of the state,—I love my country,—an enemy would conquer it,—I must combat such,—I will take sword and bayonet, and it will be at the cost of his or their lives, that he or they will hurt me, or set foot on these shores,—I will kill, I will destroy; yes I will defend my person, my property, and my country.” Such is the language of those who consider war not inconsistent with Christianity; the difference in many cases being, only, that instead of their taking a personal part in the contest, they act by their substitutes, who are sent to fight “their country’s battles.” Is this the duty of the Christian? Must we not look for the realization of the prophetic announcements, until a miraculous universal reformation is accomplished? Must it be brought about independently of human instrumentality? If such instrumentality be needed, who should be foremost in it but those who are the earliest impressed with Divine truth? It is answered, How can it be done? So long as there are men

disposed to usurp and to destroy, we must use means to hinder their injuring us. We must use those means which Providence has given us to procure our own welfare, whatever be the cost. But the same may be said of all crimes and vices. Are we right in resorting to any expedient, whatever be its criminality or moral turpitude, rather than succumbing or yielding to the oppressor? Should we deem it lawful for Christian men to be fraudulent, or to speak lies in self-defence, because frauds are constantly perpetrated around them? No. We are in the habit of viewing the possibility of the realization of a new era in the moral world whenever we find the number of those increase who, notwithstanding all difficulty, resolve to adhere to truth and to purity. And such is the case with war. It will only be abolished, when all who profess to be Christians abandon the practice of it, and withdraw all support from the prosecution of it." Such were the views which the celebrated divine, Dr. Chalmers, propounded on this important argument. He said, "The abolition of war will be the effect not of a sudden or resistless visitation from heaven on the character of men—not of any mystical influence working with all the omnipotence of a charm on the passive hearts of those who are the subjects of it—not of any blind or over-ruling fatality which will come upon the earth at some distant period of its history, and about which we of the present day have nothing to do, but to look silently on, without concern and without co-operation. The prophecy of a peace as universal as the spread of the human race, and as enduring as the moon in the firmament, will meet its accomplishment; but it will be brought about by the activity of men. It will be done by the philanthropy of thinking and intelligent Christians. The subject will be brought to the test of Christian principles, and many will unite to spread a growing sense of its follies and its enormities over the countries of the world; and the public will be enlightened by the mild dissemination of gospel sentiment through the land;

and the prophecy contained in God's book will pass into effect and accomplishment, by no other influence than the influence of its ordinary lessons in the hearts and consciences of individuals; and the measure will first be carried in one country by the control of general opinion; and the sacred fire of good-will to the children of men will spread through all climes and through all latitudes; and thus, by scriptural truth, conveyed with power from one people to another, and taking its ample round among all the tribes and families of the earth, shall we arrive at the magnificent result throughout all its provinces, and security in all its dwelling-places."

CHAPTER IV.

METHODS FOR PROMOTING INTERNATIONAL JUSTICE AND PEACE.

HAVING examined the principles and bearing of the Law of Nature and Nations on Individuals and on States, the principal causes of disturbance in the social and political structure; and the clear and authoritative precepts of Divine Law which enjoin love and forbearance, and condemn in a most explicit manner all hatred and vindictiveness; and having kept constantly in view the identity of the relations between states with those between individuals, the former being characterized as moral persons subject to the same rules of morality as the latter;—we are now enabled to consider what are the instruments and methods likely to produce an amelioration in the relations of society and of states, and contribute to obtaining international peace.

SECTION I.—EXTENSION OF RELIGION.

The first and all-important method towards such an object is a greater extension of Religion. No principle has ever been so successful in checking passions as religion. Genuine Christianity has a power which no other instrument ever wielded. Its influence is super-human, and its essence is love of the purest character and of the widest diffusion. Whatever success may attend other methods, this alone can have a lasting influence; and it is only when the Prince of Peace shall hold his universal sceptre that we shall realize Universal peace. "In his days shall the righteous flourish, and abundance of peace so long as the moon endureth. All kings shall fall down before him. All nations shall serve him. Men shall be blessed in him. All nations shall call him blessed."* But the advent of this blessed era must be

* Psalm lxxii.

promoted by *every individual* that becomes a subject of his kingdom and the recipient of his grace and power. At present, however, unfortunately, not a few of them swell the number of those who disseminate the principle or commit the crime of war, and thus clothe the guilt itself with the sanction of religion. The pulpit, the great engine of Christianity—speaking, as it does, to eager and attentive hearers, commanding their attention, appealing to their affections, and throwing an irresistible impulse to their actions—has been too often desecrated by warlike and inflammatory addresses.*

* What can be more calculated to perpetuate war and all its attendant calamities, than the following harangue from one of the most popular preachers ?

“Go, then, ye defenders of your country ;¹ advance with alacrity into the field where God himself musters the hosts to war ! Religion is too much interested in your success not to lend you her aid. She will shed over this enterprise her selectest influence. I cannot but imagine the virtuous heroes, legislators, and patriots, of every age and country, are bending from their elevated seats to witness this contest, as if they were incapable, till it be brought to a favourable issue, of enjoying their eternal repose. Enjoy that repose, illustrious immortals ! Your mantle fell when you ascended ; and thousands, inflamed with your spirit and impatient to tread in your steps, are ready to *swear by Him that sitteth upon the throne and liveth for ever and ever*, they will protect freedom in her last asylum, and never desert that cause which you sustained by your labours, and cemented with your blood. And thou, Sole Ruler among the children of men, to whom the shield of the earth belongs, ‘*Gird on thy sword, thou most Mighty !*’ Go forth with our hosts in the day of battle ! Impart, in addition to their hereditary valour, that confidence of success which springs from thy presenee ! Pour into their hearts the spirit of departed heroes ! Inspire them with thine own ; and, while led by thine hand and fighting under thy banners, open thou their eyes to behold, in every valley and in every plain, what the prophet beheld by the same illumination—chariots of fire and horses of fire ! ‘*Then shall the strong man be as tow, and the maker of it as a spark, and they shall both burn together, and none shall quench them.*’ ”²

¹ A company of Volunteers attended public worship on this occasion.

² From a Sermon on the present crisis, by Robert Hall, October 19, 1803. Hall’s Miscellaneous Works, p. 371.

Time was when religion and the military service were indissolubly mixed—when Mars and Minerva were the emblems of cities and the leaders of armies. The Romans put the gods at the head of their legions. Their standards bore the symbols and images of their superstitions. Constantine raised the sign of the cross in the midst of his armies; and even now the Church consecrates by the words of peace and charity the deplorable symbols of war and dissensions. The historical sketch which precedes this work demonstrates too clearly how much the progress of religion has been impaired, as soon as the early Christians relinquished that system of refined morality which Christianity enjoins. A new era must be inaugurated. It is in vain that, by ingenious reasoning, we endeavour to find in the Scripture the sanctions for war. Let the minister of religion fear the epidemic touch of popular frenzy. Let him rather lament the calamities, that it pleases God to bestow, and pray that passions may be extinguished and peace restored. Let him enjoin with all the authority of his sacred office the solemn maxim, "Love your enemies."

SECTION II.—COMMERCE, SCIENCE, AND ART.

Whilst religion is the greatest of all motives to human actions, interest possesses an influence not less direct and extensive, and simultaneously they contribute to strengthen the ties between all families of the earth. It is Commerce which brings nations into mutual contact, which enlarges their resources, administers to individual comfort, promotes the prosperity, and softens the manners of peoples. Providence has so distributed its bounties, that nations are in absolute want of each other. It would be impossible to estimate the extent of International Commerce throughout the world at the present day. But large as its amount is, it will expand to boundless proportions. As yet only a small

population of the world enjoys the benefits of civilization and commerce! Europe, suffering under constant political vicissitudes, is precluded from advancing at a ratio proportionate to her claims as the seat of the arts and the centre of civilization. America, rich and prolific, and with a boundless field for industry, is destined to rival the older Continent. Africa is all but a vast desert to be populated and civilized. Asia has yet to take her proper rank in human history. And an empire as rich and as fruitful is springing up, as by magic, in Australia. We are daily witnessing transitions, as sudden as they are important, and under each successive metamorphosis, we find commerce spreading its wings and extending the blessings of plenty and of peace. The extension of Commerce will be much promoted by the assimilation of the Laws which govern it in all countries, and by the introduction of an International Code of Commercial Law.

Agriculture, Chemistry, and Mechanics have yet miracles to perform. Agriculture will add to the land under cultivation, till all that is yet wild be reclaimed and converted into orchards and gardens—into grass and corn fields. Chemistry will enable us to ascertain the nature and properties of myriads of unknown plants, so that the valuable may be fostered, improved, and multiplied, and the noxious and useless suppressed. The earth is a laboratory in which, as a chemist, man has hardly begun to operate. And Mechanics will enable us to bring into review and make the most of every force, latent and manifest.

Physical forces have lately developed their immense capacities. In the early stages of civilization man knew of no forces but his own. When human strength was found insufficient, the quadrupeds were put under yoke. The Laplanders yoked their reindeer, and the Esquimaux attached dogs to their sledges. The Arabs seized the dromedary and camel, and the Hindoo made the elephant his drudge. Notwith-

standing this vast addition, experience soon taught that animal power was limited and uncertain, and moreover unequal and quickly worn out. From the use of animal force we progressed to the use of inorganic motors, such as water and wind. But these again did not meet all exigencies. Navigation, for instance, was itself a great conquest, yet a new impulse was wanted to control the elements. How shall we value the wonderful influences, physical and moral, of steam—the foremost of all civilizers? It has aroused mankind to a degree of consciousness of their powers over matter, which no other discovery ever accomplished.

Even more wonderful in their operations shall we find the forces of atmospheric pressure, by which we may be enabled to use air instead of steam. It has been with truth stated that the chronology of human condition is comprehended in the cycles of the motors, and in them, will that condition be best studied and understood. We are not to suppose that the annals of nations are for ever to be meted out in petty dynasties, or those of the species by mere circles of years; on the contrary, the probability increases, that eras will be determined by revolutions in science, and the condition of generations measured by their chief motive-agents. Already we experience the wonderful effects of Railways, Steam-packets, and Telegraphs. Whatever other discoveries may be effected in the moral and physical world, they will all contribute to render the whole world the habitation of one universal family.

SECTION III.—INTERNAL REFORMS OF STATES.

The political existence of many nations is an enigma of not easy solution. Social diseases have been allowed to become chronic, and by a strange apathy of both Peoples and Sovereigns, discontent and misrule were permitted to grow apace. There

is a want of adaptation in the constitution of empires and kingdoms. Abuses are not rectified. Nationalities have not been recognized. Physical force has been the chief agent of subordination. Need we point out the fallacy of such a system, and how much it is fraught with evil? Nations have passed the era of infancy. They grow in education and manliness. They have increased wants, and are capable of enjoying greater rights and privileges. It must always be the duty of the State, whatever be its form, whether absolute, constitutional, or democratic to expand in the same ratio, and to become the organ and the executor of the wishes of the people. The voice of the Sovereign must be the echo of the voice of the subjects. There must be unity of design and of purpose between the governor and the governed. To promote the contentment of the nation is the first duty of a Government ; and wherever peace is secured at home, the best guarantees are obtained for its observance abroad.

SECTION IV.—INTERNATIONAL RELATIONS.—HOLY ALLIANCE.

Amongst the methods used for preserving amity between Nations, the first we shall notice is that proposed in 1816 by Russia, Prussia, and Austria in forming a Treaty of Alliance, not for the purpose of mutual defence, but for contracting a joint obligation to regulate their mutual intercourse on higher principles than had hitherto been practised among nations. The text of this famous treaty is as follows :—

“ Their Majesties the Emperor of Austria, the King of Prussia, and the Emperor of Russia, as a consequence of the great events which have signalized, in Europe, the course of the last three years, and principally of the benefits which it has pleased Divine Providence to spread over the States, whose Governments have placed their trust and their hopes in Him alone, having acquired the complete conviction, that

it is necessary to base the system to be adopted by States in their mutual relations upon the sublime truths taught by the eternal religion of the Holy Saviour :

“ Declare solemnly, that the present instrument *has only for its object* to manifest before all the world their invincible determination to take for their rule of conduct, whether in the administration of their respective States, or in their political relations with other Governments, none but the precepts of that holy religion, precepts of justice, of charity, and of peace ; which far from being applicable only to private life, ought, on the contrary, to have a direct influence on the resolves of princes, and to guide all their steps, as being the sole method of strengthening human institutions, and remedying their imperfections. In consequence, their Majesties have agreed to the following articles :—

“ Art. 1. Conformably to the words of the Holy Scriptures, which command all men to look upon each other as brethren, the three contracting monarchs will remain united by the bonds of a real and indissoluble brotherhood ; and considering themselves as members of one country, they will afford each other, on every occasion, and in every place, assistance, aid, and succour : looking upon themselves with regard to their subjects and their armies, as fathers of a family, they will govern them in that spirit of brotherhood with which they are animated for the protection of religion, peace, and justice.

“ Art. II. In consequence, the only principle in force, whether between the said Sovereigns or between their subjects, shall be that of reciprocally doing each other good ; of testifying by unalterable good-will the mutual affection with which they ought to be animated ; of considering all men only as members of the same Christian nation, the three allied Princes only regarding themselves as delegated by Providence to govern three branches of the same family, namely, Austria, Prussia, and Russia ; confessing thus, that

the Christian nation of which they and their people are a part has, in reality, no other sovereign than *Him* to whom power properly belongs, because in Him alone are found the treasures of love, of knowledge, and of infinite wisdom, that is to say, God, our Divine Saviour Jesus Christ, the Word of the Most High, the Word of Life. Their Majesties recommend in consequence to their people, with their most tender solicitude, as the sole method of enjoying that peace which arises from a good conscience, and which alone is durable, to strengthen themselves more and more each day in those principles, and in the exercise of those duties which the Divine Saviour has taught mankind.

“Art. III. All those powers that may desire to make a solemn avowal of the sacred principles which have dictated the present act, and that will acknowledge how important it is to the happiness of nations, too long disturbed, that these truths shall henceforth exercise on human destiny all the influence which is their due, shall be received with equal earnestness and affection into this Holy Alliance.*

SECTION V.—ARBITRATION TREATIES.

It must have often been the source of universal regret to find that wherever disputes on subjects of the smallest importance arise between States, the negotiations pursued through the instrumentality of the ordinary diplomatic agents, are characterised by a degree of reserve and of etiquette which, rather than assisting the satisfactory solution of the problem, only contribute to involve it in greater obscurity, until by mutual misunderstandings, inconsiderate language, an excitable public press, and unfounded jealousies,

* In consequence of the invitation in the last article, the Holy Alliance was joined in 1816 and 1817 by the Netherlands, Saxony, Wurtemberg, Switzerland, and the Hanse Towns.—*Manning on the Law of Nations*, p. 84.

the question assumes an appearance of gravity, the determination of which can only be found in war. To avert, if possible, such unhappy issue, it has been recommended that Arbitration Treaties should be formed with foreign powers, binding the respective parties, in the event of any future misunderstandings arising between them, which cannot be arranged by amicable negotiation, to refer the matter in dispute to the decision of arbitrators ; the same system, in fact, as is universally adopted in contracts between individuals.

We scarcely hope that the introduction of such Arbitration clauses would be sufficient, in all cases, to avert war. Even in private contracts, notwithstanding such agreements lawsuits are often unavoidably resorted to. Nevertheless, in many cases it would prove a moral barrier to the present unsatisfactory manner of settling disputes by the force of arms. In the Act of Federation between the United States of America ; in the Federal Compact for Switzerland ; and in the Act for the Formation of the German Confederation, stipulations exist on the subject of Arbitration. Although the States of Europe are not yet joined in that same bond of union as the North American States or the Swiss Cantons, the real interests of each State are felt to be alike, and therefore we might expect, that were such mutual obligations inserted in their treaties they might often prove of substantial value.

SECTION VI.—CONGRESS OF NATIONS.

What has been stated with respect to the mode and the time in which Treaties of Peace have hitherto been concluded, has shewn the expediency of suggesting other methods for settling, on a firmer basis, the rights of nations, and it has been proposed that periodical Congresses of Nations should be held for such purposes ; the Congress to consist of Ambassadors from all civilized nations. It is proposed that the

first subject which should occupy the attention of the Congress, ought to be the formation of a Code of International Law, to comprise the most approved principles of the Law of Nations, which once established by the unanimous consent of all the nations represented at the Congress, and ratified by the Governments of those nations, should become binding, and acquire all the force of a specific treaty upon each and every point. As a complement to such a measure, the organization of a Court of Nations is suggested, composed of members appointed by the Congress to act as arbitrators in the disputes of nations, without, however, conferring upon them any enforcing powers.

Such a plan also would be productive of benefit, notwithstanding that the practical operation of it might be thwarted by the disagreement or opposition of some nation. The entire project supposes, of course, a state of friendship between nations which present circumstances may not sanction, but which we trust is far from being absolutely unattainable. Numerous scientific Congresses of an international character have been held in this and other countries, and they have generally assisted in the removal of many defects in the administration of countries, and in promoting scientific discoveries. It may be supposed that if such Congresses were held during a time of complete peace, their recommendations would receive serious attention, and lead to the peaceful adjustment of questions which, if not arrested at their budding, might become serious, and so paralyze the peace of nations. It would be of great benefit to the interests of nations were the principles of International Law reduced into the form of a Code, as it would have the effect of stamping with greater authority the dictates of the Law of Nations, by bestowing on them a fuller and more specific concurrence. It must, however, be admitted that it would still remain defective, for want of enforcing power such as is awarded to Municipal Law.

SECTION VII.—REDUCTION OF ARMAMENTS.

No method is more important for promoting International Peace, than the reduction of armaments. It is morally impossible, that peace can be of any duration, so long as enormous standing armies are maintained by all states, ready at a moment's notice to fall upon each other. It is said, the best way to obtain peace, is to be prepared for war. Let others believe, that we have abandoned our means of self-defence, and are essentially powerless, and they will rush on us; or let it be known that under no circumstances we will be induced to go to law, and every person will attempt to take advantage. Such gratuitous assumptions are, however, of no practical value. Standing armies are formed for distinct purposes; to overawe the population; to act for internal defence; to be ready for war and so to act as an external defence; or for purposes of aggression.

As to the first, it is unfortunately evident, that many of the Continental States, are converted as it were into a vast body of barracks, the only hope of their preserving peace being exclusively placed upon the armies. Let these be withdrawn, and disorder and anarchy will certainly ensue. That the government of such States may consent to the diminution of their armies under such circumstances, is morally impossible. It must depend on their first introducing salutary internal reforms, and thus by degrees substituting moral for physical force. It is essential also that the peoples should feel the great danger of maintaining large standing armies. Let them learn that the jealousy of standing armies was the elementary principle of the British Constitution, and the source of all British freedom. In the words of Sir James Mackintosh, "small peace establishments, old English liberty, a people fearlessly discussing all principles and measures of Government, a House of Commons,

jealous of the power of the sword, tenacious of the power of the purse, have given these islands, happiness and greatness."

The second object performed by standing armies—viz., to administer prompt means of self-defence from foreign aggression—is fallacious in the extreme. Let it be remembered that strength is relative only, and, moreover, that the danger of aggression is distant, and to prepare for it in such a manner entails a present annual exorbitant expenditure, and a large amount of suffering from taxation. The maintaining of large standing armies, is often of itself, productive of wars. Who would be a merchant without trafficking, or a farmer without farming? and who would be a soldier if there was not at least a chance of fighting? And is it not natural, that if such chances are distant, he would endeavour to approximate them? It is to be expected that men having adopted means they think efficient to any end, should desire to put their efficiency to the test, and to have some direct result from their labour and expense. "An armed and fortified peace," said Michael Chevalier, "is war. The day on which the people have acquired a knowledge of their interests, they will consider as their most dangerous and inveterate enemies, in whatever colour they may be clad, the men who stand up as apologists of large standing armies, who under some pretext or other, feed the fire of national enmities, or who with their mouths full of false patriotism strive to excite a feeling that the interests of nations are opposed to one another." The third object of standing armies, viz., for purposes of aggression, is perhaps, more than any other likely to be realized, but it is not necessary to show the evil and wickedness of wars of aggression.

It is, therefore, of the utmost importance for the good of all nations respectively—for the purpose of promoting peace—for securing the liberties of the peoples, and for obtaining internal and external security, that the present system of

maintaining large standing armies be considerably diminished, if not altogether abandoned, and that agreements of proportionate diminution of armaments be entered into with all nations.

SECTION VIII.—COST OF WAR AND ARMAMENTS.

Whilst War and Armaments are productive of serious derangements in Politics, their economical bearings are not less important and grievous. That is, the cost it entails in the loss of property and of human life; in the interruption of agriculture and the arts; in the suspension of intellectual and moral culture; in the consequent degradation of popular character; in the disturbance of the ordinary operation and administration of the laws; and in the creation of large armies which remain as a burden upon the people.

The following tables shew the origin and progress of the National Debt of the United Kingdom, which, at the end of the year 1854, amounted to £775,041,272., with an annual charge thereon of £27,726,961. The war expenditure during fourteen years from 1801 to 1814, including Army, Navy, and Ordnance, was £633,634,614.; and from 1815 to 1854 inclusive, a period of almost uninterrupted peace, was £659,375,823., making a grand total of £1,282,491,241.

WAR EXPENDITURE.

AMOUNT EXPENDED IN EACH YEAR FROM 1801 TO 1854 UNDER
THE HEADS OF NAVY, ARMY, AND ORDNANCE EXPENSES.

YEAR.	NAVY.	ARMY.	ORDNANCE.	TOTAL.
	£	£	£	£
1801	17,266,135	17,752,947	2,197,186	37,216,268
1802	12,037,162	11,836,407	1,142,839	25,016,408
1803	8,072,378	13,488,080	2,029,799	23,590,757
1804	11,921,551	17,927,422	4,046,054	33,895,027
1805	14,493,843	19,290,181	5,105,428	38,889,450
1806	16,143,628	19,294,982	5,250,376	40,688,986
1807	16,896,661	19,373,101	4,260,979	40,530,741
1808	17,685,390	21,916,198	5,148,852	44,750,440
1809	19,372,061	23,910,222	4,928,674	48,210,957
1810	20,023,512	23,038,479	4,808,745	47,870,736
1811	19,202,579	29,160,530	4,495,816	52,858,925
1812	20,370,339	31,004,701	5,240,537	56,615,577
1813	21,833,522	44,241,285	5,241,628	71,316,435
1814	22,124,437	35,259,377	4,302,893	61,686,707
1815	16,073,370	35,321,544	3,248,759	54,644,173
1816	9,516,325	15,027,898	2,748,841	27,293,064
1817	6,473,063	9,718,066	1,417,648	17,608,777
1818	6,521,714	7,785,979	1,247,197	15,554,890
1819	6,395,553	8,998,037	1,243,639	16,637,229
1820	6,387,799	8,944,814	1,092,292	16,424,905
1821	6,107,280	9,138,845	1,183,727	16,429,852
1822	5,042,642	7,698,974	1,007,821	13,749,437
1823	5,613,151	7,351,992	1,364,328	14,329,471
1824	6,131,818	7,573,026	1,407,308	15,112,152
1825	5,849,119	7,579,631	1,567,037	14,995,837
1826	6,540,634	8,297,361	1,869,606	16,707,601
1827	6,444,727	7,876,682	1,914,403	16,235,812
1828	5,667,970	8,084,043	1,446,972	15,198,985
1829	5,902,339	7,709,372	1,569,150	15,180,861
1830	5,309,606	6,991,163	1,613,908	13,914,677
1831	5,689,859	7,216,293	1,472,944	14,379,096
1832	4,882,835	7,129,874	1,792,317	13,805,026
1833	4,360,235	6,590,062	1,314,806	12,265,103
1834	4,503,909	6,493,925	1,068,223	12,066,057
1835	4,099,430	6,406,143	1,151,914	11,657,487
1836	4,205,736	6,473,183	1,434,059	12,112,978
1837	4,750,658	6,521,716	1,444,523	12,716,897
1838	4,520,428	6,815,641	1,384,681	12,720,750
1839	5,490,204	6,542,662	1,951,210	13,984,076
1840	5,597,511	6,890,267	1,631,640	14,119,418
1841	6,489,074	6,418,422	1,815,132	14,722,628
1842	6,640,163	5,987,921	2,174,673	14,802,757
1843	6,606,057	5,997,156	1,910,704	14,513,917
1844	5,858,219	6,178,714	1,924,312	13,961,245
1845	6,809,873	6,744,589	2,109,707	15,664,169
1846	7,803,463	6,699,699	2,361,534	16,864,696
1847	8,013,873	7,540,405	2,947,869	18,502,147
1848	7,922,287	6,647,284	3,076,124	17,645,695
1849	6,942,397	6,549,109	2,332,032	15,823,538
1850	6,437,883	6,401,883	2,553,178	15,392,944
1851	5,849,917	6,485,498	2,238,442	14,573,857
1852	6,625,944	7,018,164	2,491,798	16,135,906
1853	6,640,596	7,023,488	2,661,591	16,325,675
1854	12,182,769	8,010,882	4,386,391	24,580,042
Total .	496,214,728	642,374,319	133,871,294	1,282,491,241

NUMBER, DURATION, AND COST OF THE BRITISH WARS SINCE THE REVOLUTION IN 1688.

With whom.	Reign.	When begun.	When ended.	Duration of each war.	Duration of each peace.	Debt at several periods.			Debt paid off last peace.	Raised by Taxes.	Raised by Loans.	Total expended.
France . .	Will. III.	{ May 7, 1689.	{ Feb. 10, 1697.	Y. M. D. 7 9 3	Y. M. D. 4 2 22	In 1682 664,263	Contracted during the intervals. 15,730,439	In 1702 16,394,702	4,200,000	16,000,000	20,000,000	36,000,000
France and Spain . .	{ Anne }	{ May 4, 1701.	{ March 13, 1713.	11 10 9	5 9 3	In 1702 16,394,202	37,750,861	In 1714 54,145,363	2,053,125	30,000,000	32,500,000	62,000,000
Spain . .	Geo. II.	{ Oct. 19, 1739.	{ Oct. 18, 1748.	8 11 30	7 7 0	In 1727 52,092,238	36,773,192	In 1763 138,865,430	10,281,795	25,000,000	29,000,000	64,000,000
France . .	{ Geo. II. and III.	{ May 18, 1756.	{ Feb. 10, 1763.	6 3 21	12 2 9	In 1775 123,583,635	121,267,998	In 1784 249,851,628	10,501,380	32,000,000	104,000,000	136,000,000
America .	Geo. III.	{ Sept. 12, 1775.	{ Sept. 3, 1783.	8 4 5	9 5 8	In 1793 239,350,491	601,500,343	In 1817 840,850,491	operation of sinking fund. 88,500,000	263,500,000	200,500,000	464,000,000
France .	Geo. III.	{ Feb. 11, 1793.	{ March 27, 1802.	9 1 16	0 11 11	In 1817 239,350,491	601,500,343	In 1817 840,850,491	operation of sinking fund. 88,500,000	263,500,000	200,500,000	464,000,000
France . .	Geo. III.	{ March 9, 1803.	{ April 10, 1814.	11 1 1								
Debt cancelled from 1817 to 5th January, 1855										62,767,499		
Debt, funded and unfunded, 5th January, 1855										£778,082,992		
Charge thereon										27,726,961		

SECTION IX.—MISCELLANEOUS AGENCIES.

Numerous other agencies might be enumerated which simultaneously concur to produce a substantial improvement in international relations. First, the facility of communication and travelling has of late years given an impulse to the acquisition of knowledge of each other's Institutions, Laws, Manners and Languages; which again have the effect of introducing much similarity into the characteristics of Nations and countries. Efforts are being made for the adoption of an uniform system of Moneys, Weights, and Measures; whilst the cost of transmission of letters throughout the world has been considerably reduced, and rendered certain and expeditious.

Secondly, it is impossible but that the extensive application in modern times of scientific principles to the arts of life, under the influence of which, accumulated wealth, increase of comforts, and diffusion of knowledge are so powerfully promoted, must have the effect of turning men's minds from war, which almost brings us back to a savage state.

Thirdly, a spirit of benevolence and of association lead men and nations to come into close contact, whilst by the efforts of religious societies a milder spirit is introduced into many countries otherwise secluded from the more civilized nations.

Fourthly, a more matter-of-fact manner of looking at things prevails now generally. Time was when the Muses were lavish of their laurels to the brave; when the Canvas only recorded the spectacle of a battle-field, and exhibited the nodding plumes of some warlike chief; when Romance elevated martial life; when Sculpture pointed to martial statues as its *chef-d'œuvres*, and when Architecture boasted of structures commemorative of hostilities. A gradual change is visible in the subjects chosen for the exercise of skill in the fine arts. The prodigies of science, the blessings of plenty, and the deeds of the philanthropist, are now far more frequently the themes of the artist, the scholar, the historian, and the poet. It has been properly said, that at the present day, he is more applauded who crowns a country with peace and plenty than

he who covers it with bones and putrefaction—he who builds than he who burns a city—he who has founded a wise system of laws than he who has overturned it—he, in short, whose fame is associated with the happiness of his race, than he who has wantonly hurled the firebrand of destruction into the homes of that happiness, though the smoke and glare of its conflagration should reach the heavens, and the crash of ruins shake the earth to its centre.

From the remotest times the civil condition of mankind in all countries has been undergoing a slow but continual change to a state of law, and order, and quiet. The same law pervades individuals, communities, and nations. Nothing can arrest it. A constant progress is the law of the universe—a progress which will inevitably lead to lasting and Universal Peace.

O SCENES surpassing fable, and yet true,
 Scenes of accomplished bliss ! which who can see,
 Though but in distant prospect, and not feel
 His soul refreshed with foretaste of the joy ?
 Rivers of gladness water all the earth,
 And clothe all climes with beauty ; the reproach
 Of barrenness is past. The fruitful field
 Laughs with abundance ; and the land, once lean,
 Or fertile only in its own disgrace,
 Exults to see its thistly curse repealed.
 The various seasons woven into one,
 And that one season an eternal spring ;
 The garden fears no blight, and need no fences,
 For there is none to covet ; all are full
 The lion, and the leopard, and the bear,
 Graze with the fearless flocks : all bask at noon
 Together, or all gambol in the shade
 Of the same grove, and drink one common stream.
 Antipathies are none. No foe to man
 Lurks in the serpent now : the mother sees,
 And smiles to see, her infant's playful hand
 Stretched forth, to dally with the crested worm,
 To stroke its azure neck, or to receive
 The lambent homage of its arrowy tongue.
 All creatures worship man, and all mankind
 One Lord, one Father.

The Task.

APPENDIX.

THE JUDICIAL OR CIVIL LAWS OF MOSES.

THE co-existence of the precept, "Thou shall not kill," together with the Levitical law of capital punishment for murder, has been regarded as affording a complete proof that the inviolability of human life was prescribed by associating a positive command not to kill, with the highest punishment for the commission of murder. It must, however, be remembered, that whilst the Ten Commandments were *universal* in their nature, the Levitical law was essentially of a *local* character. Under these circumstances they can scarcely be made to explain each other. "Thou shall not kill," is a great *moral command*. The punishment to be awarded for the crime of so doing is a *civil institution*. The former is of perpetual and universal obligation. Can it be so said of the latter? Upon the question of the binding-force of the civil laws of Moses on other nations, the following learned remarks are of much value :—

"There have not been wanting writers of high authority who have held that legislators ought to adhere closely to the Mosaic laws, as being the wisest that can be framed. Nor is this opinion without a plausible ground of support. The argument affirming it, runs thus:—God was the lawgiver of the Hebrew people : but God is an infinitely wise lawgiver ; therefore a body of laws emanating from him must be the wisest that can be. This reasoning is plausible ; but it is fallacious. It overlooks a material distinction—the distinction between laws intrinsically the wisest, and laws which are the wisest only when viewed as relating to times and circumstances. Laws may be perfectly wise, when framed with reference to one state of society, which would be unwise and absurd, if framed with reference to another condition of things.

"Civil laws, whatever be their source, to be adapted to the wants of any given community, must arise out of circumstances, and be relative to certain specific ends ; which ends, under other circumstances, it might be the height of folly to pursue. When Solon was asked whether he had given the best laws to the Athenians, he replied, ' I have given them the best that they were able to bear.'* Sage response ! Is it not of much the same nature with that declaration of Divine Wisdom to the Jews which has so perplexed biblical inquirers :—' I gave them

* Plutarch's Life of Solon.

also statutes that were not good :”* that is laws not absolutely the best, though they were relatively so. This view is confirmed by what was said by Christ, that Moses tolerated divorce among the Jews because of the hardness of their hearts :† that is to say, that if the Jews of Moses’ time had been less hard-hearted, that is, less prejudiced, less wedded to old notions and usages—several of his statutes would have been different from what they were. Considerations of political expediency were often of prevailing force with him in framing his laws.

“A wise legislator, whether divine or human, in framing a new code of laws for a people, will give attention to considerations of climate, of religion, of existing institutions, of settled maxims of government, of precedents, of morals, of customs, and of manners. Out of all these there arises a general tone or habit of feeling, thinking, and acting, which constitutes what may be called the spirit of the nation. . . . The principle that laws must be relative to circumstances, that they must grow out of the state of society, and be adapted to its wants, is founded in reason and confirmed by experience. It is, therefore, a just and solid principle, and must commend itself, as such, to every enlightened judgment. But it involves the clear and certain inference, that God never intended the Mosaic laws to bind any nation but the Hebrews ; and that it would be quite foolish to detach particular parts from the rest, and to attempt the engrafting of them on other systems to which they must prove incongruous. The fundamental principle of the Hebrew polity—the suppression of idolatry, and the maintenance of the worship of the one true God—so diverse from that of every other government ever known among men, could not but enter essentially into the frame of the laws. Besides this, the circumstances of climate, soil, situation, political relations, character and power of the neighbouring nations, customs, mode of life, prevalent notions as to honour and disgrace, and the nature and severity of punishments, species and sources of crime, kinds of disease, &c. &c., would modify a divine, quite as much as they would a human legislation : and still more, perhaps, in proportion to its superior wisdom. If God were now, by special revelation, to enact a code of civil laws for every nation on the globe, it is not likely that any two of them would agree in every particular.‡

* Ezek. xx. 25.

† Matt. xix. 8.

‡ Wines *On the Laws of the Ancient Hebrews*.

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LECTURER ON COMMERCIAL LAW AT KING'S COLLEGE, LONDON ;

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